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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 12-12020-mg

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In the Matter of:

RESIDENTIAL CAPITAL, LLC, et al.,

Debtors.

- - - - -x

United States Bankruptcy Court

One Bowling Green

New York, New York

September 27, 2016

9:33 AM

B E F O R E:

HON. MARTIN GLENN

U.S. BANKRUPTCY JUDGE

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2 Trial regarding Reed Claims Objection. Trial set for September
3 26 at 9:00 AM, continuing day to day on September 27th,
4 September 28th, September 29th and September 30th.

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A P P E A R A N C E S :

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BY: BARBARA K. HAGER, ESQ.

RESIDENTIAL CAPITAL, LLC, et al.

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1 P R O C E E D I N G S

2 THE COURT: All right, please be seated.

3 Mr. Reed, you may want to stay up, since you're going
4 to take the witness stand. I leave it up to you.

5 All right, we're here in Residential Capital,
6 12-12020. First let me say, Mr. Reed had contacted my
7 courtroom deputy to say that he was stuck in traffic and was
8 going to be late.

9 Mr. Reed, you just have to leave home earlier. I
10 mean, I don't tolerate lawyers appearing late; I can't tolerate
11 pro ses appearing late. There's traffic; leave earlier. I
12 don't know what else to say.

13 All right. Second, when Mr. Reed arrived in court
14 today, he went to the Clerk's Office to file a motion pursuant
15 to FRCP 45(g) to compel compliance with trial subpoena or for
16 contempt. That's in the process of being filed on the docket.
17 It includes a copy of the subpoena that Mr. Reed served on Joan
18 Kline on September 26th at 1 p.m. It includes proof of
19 service, which also indicates that the one-day's attendance and
20 mileage fee in the amount of \$88.30 were paid. It also
21 attaches a September 22, 2016 letter to Mr. Reed from Joan
22 Kline, substance of which said, due to -- quote, "Due to
23 unforeseen circumstances, I am unable to comply," close quote.
24 Has some other attachments.

25 The Court is in the process of entering an order. My

1 courtroom deputy will bring copies into the courtroom, both for
2 Mr. Reed and for counsel, the substance of which is to order
3 Ms. Kline to appear here in person on Thursday morning, either
4 to testify or to explain why she shouldn't be held in contempt.
5 You'll both have copies of that order shortly as soon as it's
6 filed. It explains the basis for my ruling.

7 If Ms. Kline fails to appear on Thursday morning at
8 9 a.m., and if she appears and is unwilling to testify, I will
9 at that point consider a renewed application from Mr. Reed to
10 offer Ms. Kline's deposition testimony in evidence. The order
11 I prepared explains the showing that has to be made in order --
12 for the use of a deposition over a hearsay objection, where --
13 well, it describes what "unavailable" means within the meaning
14 of Federal Rule of Evidence 804(a)(2). So you'll see that. So
15 that will deal with the issue of Ms. Kline.

16 MR. REED: Your Honor --

17 THE COURT: Mr. Reed.

18 MR. REED: -- you also ordered yesterday that I be
19 prepared to give you the page and line numbers for Watson and
20 Clampitt first thing in the morning, and I'm ready to do that.

21 THE COURT: Okay, let me just finish one last thing.

22 With respect to this order as to Ms. Kline, my order
23 requires that you serve a copy of the order on Kline on or
24 before 6 p.m. today by email or facsimile. Do you have either
25 a facsimile or an email address for her?

1 MR. REED: Yes. I have an email for her.

2 THE COURT: You have an email for her. During a
3 break, I can arrange for you to get a PDF electronic copy of
4 the order so that you can serve it on her by email, attach it
5 to an email. And the order's going to require that you
6 promptly file a certificate of service of this order, on the
7 docket. So, after you -- if you serve her by email, which I've
8 authorized, you'll have to -- I'll certainly accept your
9 representation today that you did so. And tomorrow file a
10 certificate of service that you did serve her by email by the
11 deadline. Okay, so I just want to finish covering that.

12 MR. REED: I file a certificate the next Wednesday
13 morning? Tomorrow morning?

14 THE COURT: Yeah.

15 MR. REED: Yeah. Okay.

16 THE COURT: Okay? Right, because you're here;
17 you'll --

18 MR. REED: Yeah. Yeah.

19 THE COURT: -- prepare a certificate of service and --
20 but I am permitting it to be served by email, and so we can
21 provide both of you -- once the order is entered, my courtroom
22 deputy can provide each of you with a PDF copy of what gets
23 filed on ECF, and that will permit you to serve Ms. Kline by
24 email; you can attach it to an email to her.

25 Just bear with me a second.

1 So, with respect to the Clampitt deposition
2 designations, counterdesignations, what I would ask you to do
3 is, during the first recess this morning -- have you given
4 Ms. Hager those designations yet?

5 MR. REED: Your Honor, I thought I -- I thought I was
6 to tell you what they are and --

7 THE COURT: You are, but here's what I would like you
8 to do: when we take a recess this morning, go over them with
9 Ms. Hager so that she can see whether she has objections to
10 what it is you've designated, or not. Okay? There's nothing
11 I -- I'm not going to do anything immediately at this moment
12 with it, but that's what I want you to do is go over -- you
13 have page and line references --

14 MR. REED: I do.

15 THE COURT: -- of it. You can go over it with
16 Ms. Hager during a recess. She can hopefully conclude whether
17 she's going to -- usually the objections, if there are any, are
18 pretty clear and we can at an appropriate point go through on
19 the record with what the designations are.

20 And I'll ask you, Ms. Hager, whether you have
21 objections to it or not. And I think what you were also going
22 to tell me was there are portions that you want to designate as
23 well, that you wanted -- you correctly wanted to know -- before
24 you decided that, you wanted to know what Mr. Reed was
25 offering.

1 All right? So, without further delay, let's proceed
2 with Mr. Reed's testimony, okay?

3 So, Mr. Reed, you need to come up to the witness
4 stand. Bring whatever exhibits, books, notes you want, so that
5 you don't have to go get out of the witness stand, go back to
6 get your materials. Okay? All right, so let's do that now.
7 And you'll be sworn when you come up, okay? But bring your
8 stuff up now, okay?

9 Ms. Hager, is there any preliminaries that you want to
10 raise?

11 MS. HAGER: No, Your Honor.

12 THE COURT: Okay.

13 MR. REED: Is there --

14 THE COURT: No, you --

15 MR. REED: Is there shelves or -- two books --

16 THE COURT: In front. You'll put -- yeah. You
17 need -- don't bring any more chairs; just bring yourself and
18 your books and --

19 MR. REED: I got another one of these.

20 THE COURT: Well, there's a shelf in front of the
21 seat; you can put some stuff there, and other stuff you can put
22 on the bunch.

23 (Pause)

24 MR. REED: Judge?

25 THE COURT: Yes, go ahead, please. I appreciate it.

1 Thank you.

2 (Pause)

3 THE COURT: All right, ordinarily the witness would
4 have to stand, but I'll allow Mr. Reed to take the oath sitting
5 down.

6 Okay?

7 MR. REED: Sorry.

8 THE COURT: Just -- if you'd just raise your right
9 hand, Mr. Reed.

10 (Witness sworn)

11 THE COURT: All right. And just point -- turn the
12 microphone a little bit more toward the front --

13 MR. REED: Yes.

14 THE COURT: -- Mr. Reed. Okay. I heard you and I
15 think the recorder did, but I just want to make sure that your
16 testimony comes through clearly.

17 All right, as I explained yesterday that Mr. Reed's
18 done this before, the first trial, I'm permitting him to
19 testify in the narrative form.

20 And if -- Mr. Reed, if counsel objects to your
21 questions, you just need to stop until I rule -- not your
22 questions -- objects to any of your answers, you need to stop
23 and wait until I've ruled. Okay?

24 MR. REED: Okay.

25 THE COURT: All right. So, Mr. Reed, you're under

1 oath and you can testify in the narrative form, meaning, you
2 can -- hopefully you've got some notes as to how -- you've
3 organized your thoughts and you know what you -- go ahead. And
4 obviously, you testify about facts. We're not going to deal
5 with legal arguments. Legal arguments -- there'll be time to
6 make those after. So your testimony should be confined to the
7 facts.

8 MR. REED: Your Honor, I -- you said that in the trial
9 before. When is the time for the legal argument?

10 THE COURT: After all the evidence is in, Mr. Reed.
11 After the evidence is closed, when both sides have rested, put
12 in whatever facts they wanted to, I will ask -- after you've
13 completed your case, I will ask whether you rest, meaning that
14 you've offered whatever evidence you want to offer. Then
15 Ms. Hager'll have an opportunity to put in whatever evidence
16 she wishes to offer; when she completes, I will ask whether she
17 rests. If there is appropriate rebuttal, you'll have an
18 opportunity to put in further evidence at that point and you'll
19 rest. When all the evidence is in and the record's closed,
20 then I will ask both sides whether they wish to make final
21 argument. All right, so this is about facts, not legal
22 arguments.

23 MR. REED: Oh, the closing argument is the legal
24 argument?

25 THE COURT: That's time for legal argument. Okay?

1 MR. REED: Okay.

2 THE COURT: All right, so let's go ahead, Mr. Reed.

3 (Pause)

4 MR. REED: In the fifteen years preceding the 2008
5 foreclosure action brought by GMAC Mortgage, I continually over
6 that span bought, sold, or flipped and rented, residential real
7 estate in New Jersey and Virginia. As, I guess you'd call it,
8 corroborating proof of that kind of activity, I brought, in my
9 exhibits, deeds that were produced by the county; they're self-
10 authenticating, I believe; government records about property,
11 that I'd like to admit as evidence -- admit as evidence
12 demonstrating that kind of activity, beyond my, just, testimony
13 to that effect.

14 If we can look to tab 36 in book 2.

15 THE COURT: Mr. Reed, I just want to be clear that my
16 understanding is that the tab numbers are essentially the
17 exhibit numbers that you're assigning to each of these
18 exhibits. Is that a fair statement? Do you understand my
19 question? You're supposed to stamp the exhibits with an
20 exhibit number. These are not stamped but you did provide the
21 Court with binders, and each exhibit is behind a tab with a
22 number on it. And unless you disagree, for example, what's
23 behind tab 3 (sic), the deed, you intend that as Claimant's
24 Exhibit 36, am I correct?

25 MR. REED: Yes. That was my understanding of what

1 that meant.

2 THE COURT: Ms. Hager, did you understand it the same
3 way?

4 MS. HAGER: Yes, Your Honor.

5 THE COURT: All right. So I have open in front of me
6 Claimant's Exhibit 36, marked for identification.
7 (Deed of property purchased in 1995 was hereby marked for
8 identification as Claimant's Exhibit 36, as of this date.)
9 (Claimant's Exhibits were marked for identification, as of this
10 date.)

11 THE COURT: Go ahead, Mr. Reed.

12 What is the deed of, Mr. Reed?

13 MR. REED: This is a deed of a property I bought in
14 1995. Page 3 of the document shows the price I purchased it
15 for, of 399,265.

16 THE COURT: Ask you this, Mr. Reed: is this property
17 one of the properties as to which you're claiming damages, or
18 you're just using this to show that over time you purchased
19 properties?

20 MR. REED: Yes, that I purchased and sold them,
21 purchased and sold them, and at consistently higher prices --

22 THE COURT: This is not one of the properties for
23 which you're seeking damages?

24 MR. REED: Correct.

25 THE COURT: Okay.

1 MR. REED: I just wanted to give the Court some
2 objective evidence, not just my story of me being -- doing
3 these kinds of things.

4 THE COURT: Mr. Reed, one last point -- preliminary
5 point I would make is that until you offer a document in
6 evidence, it's not in evidence. Okay? You can point me to it
7 for identification. To some extent, you can testify about it.
8 But you need to actually offer -- whether it's this exhibit or
9 others, you need to offer exhibits in evidence --

10 MR. REED: I remember that.

11 THE COURT: -- and I need to rule on it. While I
12 don't necessarily require that you offer it when you first
13 discuss it, it makes for a clearer record if you do so. I'm
14 leaving that to you. But you're going to be responsible, at
15 the end of the day, for making sure whatever you want in
16 evidence has been offered and I ruled on it.

17 MR. REED: Okay. I see.

18 THE COURT: And if you offer it, Ms. Hager has an
19 opportunity to object to it. But -- go ahead.

20 MR. REED: Okay. So, I offer Exhibit 36.

21 THE COURT: Ms. Hager?

22 MS. HAGER: No objection.

23 THE COURT: All right, Exhibit 36 is in evidence.

24 (Deed of property purchased in 1995 was hereby received into
25 evidence as Claimant's Exhibit 36, as of this date.)

1 THE COURT: Go ahead, Mr. Reed.

2 (Pause)

3 MR. REED: I would ask the Court to turn to tab and
4 Exhibit number 38.

5 On the first page of this document -- this document is
6 a -- again, a -- I believe, a self-authenticating government
7 document, regarding property.

8 THE COURT: Where's this property?

9 MR. REED: This is the same property that we just
10 looked at in the preceding exhibit.

11 THE COURT: Okay, you sold the property?

12 MR. REED: I sold the property. As I said, I'm trying
13 to demonstrate the history -- a sampling. It's not entirely
14 inclusive of everything, but a sampling.

15 So I sold the property, and this -- if we look on the
16 first page, was for 840,000 dollars.

17 THE COURT: So you bought it in January of 1995 and
18 you sold it in April of 2005?

19 MR. REED: Yes. But I didn't just buy it and then
20 sell it. I would -- I improved it; I added square footage,
21 bathrooms, architectural treatments, which is what the -- the
22 things I typically do to my houses. Later today when
23 Mr. Maines comes, you'll hear him talk about that as well.

24 So I move for Exhibit 38 to be admitted into evidence.

25 THE COURT: Any objection, Ms. Hager?

1 MS. HAGER: No objection.

2 THE COURT: All right, Exhibit 38 is in evidence.

3 (Government document evidencing sale of property purchased in
4 1995 was hereby received into evidence as Claimant's Exhibit
5 38, as of this date.)

6 MR. REED: If we can turn to tab and Exhibit 24.

7 Have to give me a moment; want to refresh what I have
8 here.

9 (Pause)

10 MR. REED: If you'd turn to page -- 1 -- 2, this is,
11 again, records from County of Henrico; I believe they're self-
12 authentic --

13 THE COURT: What tab are you looking at?

14 MR. REED: I'm sorry. This is -- should be 24.

15 THE COURT: All right. I'm sorry. Okay.

16 MR. REED: These are records from the County of
17 Henrico, regarding property certified to by a director in the
18 County of Henrico, as to their authenticity.

19 If we look to page -- 1, 2, 3, 4 -- 5 -- let's see; is
20 this right? 6, 7 -- 8. Page 8.

21 (Pause)

22 MR. REED: This is for 900 (sic) Spring Brook Court.
23 I bought this in --

24 MS. HAGER: Excuse me. The page 8 I'm looking at is
25 for 4817 Cobblestone Landing.

1 MR. REED: Oh. Let me make sure I --

2 MS. HAGER: Unless I'm on the wrong page.

3 THE COURT: Describe what's on the page, Mr. Reed.

4 MR. REED: Says, "County of" -- top of the page, it
5 says, "County of Henrico, Finance Department, Real Estate
6 Assessment Division" --

7 THE COURT: Well --

8 MR. REED: -- "Transfer and Assessment".

9 THE COURT: All right, you see that, Ms. Hager? The
10 upper left-hand corner of the page, it says, "Transfer and
11 Assessment".

12 MR. REED: Your Honor, is this what your page looks
13 like?

14 THE COURT: Yes, it is.

15 MR. REED: Okay. They provided this --

16 MS. HAGER: Oh, on the header --

17 THE COURT: Yes.

18 MS. HAGER: Okay.

19 THE COURT: In the upper left-hand corner it says,
20 "Transfer and Assessment".

21 MS. HAGER: Okay. And the address is 9000 Spring
22 Brook Court?

23 MR. REED: Yes.

24 MS. HAGER: Okay. Sorry.

25 MR. REED: It's okay.

1 If you look at the top table, I purchased the property
2 in 2003 for 300,000 dollars, and we did site work to it and
3 then I wound up selling it for 580,000 dollars.

4 (Pause)

5 MR. REED: If we move two pages forward in the same
6 exhibit -- I believe, page 9 -- 10, as we count them; there are
7 no page numbers on -- this should be for 48 (sic) Cobblestone
8 Landing Place.

9 MS. HAGER: Excuse me. Is that 4817?

10 MR. REED: Yes.

11 (Pause)

12 MR. REED: If we look at the purchase and sale
13 price -- I'm putting in the record, the contract price recorded
14 with the deed that I purchased was 522-. But I will testify
15 that that was -- and I thought it would be reflected here; we
16 had a sales rebate, from the builder, that was 60,000 dollars,
17 that I negotiated. And so, in essence, there was a -- we held
18 it, did some more improvements to it, and then I sold it, as
19 you could see, in a short amount of time.

20 THE COURT: Did you make improvements to the property?

21 MR. REED: Yeah, we did work to it, on that property.
22 We added, again, some square footage to it --

23 THE COURT: Is there any exhibit that shows how much
24 you invested to do the improvements?

25 MR. REED: No, Your Honor. I --

1 THE COURT: How do I know you made a profit? You told
2 us what you paid, you told us what you sold it for, but you
3 didn't tell us how much you put in, in improvements.

4 MR. REED: I can do an estimate from my memory,
5 because I -- I'm just trying to show you that I was in the
6 business of that. This --

7 THE COURT: Okay. All right.

8 MR. REED: I'm not seeking to -- I didn't think I had
9 to seek -- I'm not seeking the profits for these.

10 THE COURT: Okay. But you're -- never mind. Go
11 ahead.

12 MR. REED: Like, on 4817, we -- I added a bedroom;
13 that was about 7,000 dollars, because it was an internal space
14 but an expansion of the square footage, which adds to the
15 appraised value. We did interior architectural work in terms
16 of moldings and treatments and, I think, trace ceilings; that
17 was about 4,000 dollars. So --

18 THE COURT: All right, let me not divert you from
19 you -- I understand this is not property you're seeking damages
20 with respect to.

21 MR. REED: Correct.

22 THE COURT: Go ahead, Mr. Reed.

23 MR. REED: And I wasn't -- I do this as a continual
24 losing proposition over fifteen years. I mean, I did it for a
25 reason. We were making a living off of that.

1 THE COURT: Did you have any other business or
2 employment during that fifteen-year period, other than buying,
3 selling, flipping homes?

4 MR. REED: At different times. Yeah, I -- for fifteen
5 years I also designed, built and renovated and owned
6 restaurants in Six Flags and Paramount movie-studio theme
7 parks. In the '90s I designed, built and owned the chain of
8 Taco Bells. I actually was responsible for putting the Taco
9 Bell in the World Trade Center, putting that deal together.
10 KFC. Mrs. Field's Cookies. Things like that.

11 And I was recruited to -- later, I was recruited to --
12 I -- a regional manager for Citibank, Smith Barney, and I wound
13 up with them for a while, as well.

14 We -- where was I?

15 (Pause)

16 MR. REED: 11, 12, 13, 14.

17 If you look at the same exhibit and move forward
18 couple pages -- let's see. Again. 11, 12, 13 -- 14. Page 14,
19 I believe. Again it says, "Transfer and Assessment" up in the
20 left-hand corner. It's for Parcel 133 Brookschase. That's --
21 I bought that property in '06, and in '08 we sold the property.
22 That one was less profitable because we did site work to that
23 property because it needed to be raised and moved for a flood
24 zone in the tail end of the property. But it was still --
25 there was still some profit to that one.

1 I believe page 16 of the same tab in the exhibit,
2 again transfer and assessment. And that property was for
3 11617 Cobblestone Landing Court, purchased for 456,785 dollars.
4 We sold it for 619-. And, again, we did some work to that one;
5 did some exterior work, architectural work, interior
6 architectural work, some countertops, and some reconfiguration
7 of internal space.

8 (Pause)

9 MR. REED: If we go back and go to page 3 of that
10 document, it shows the purchase of Old Dell Trace, which is
11 the -- that property is subject to what we're going to be
12 discussing in terms of -- I believe to be ascertainable --
13 excuse me -- losses. But at this moment, the proposition for
14 this document is to show that it was purchased for 899-. And
15 it's my testimony that upon improvements that I planned for the
16 property and engaged in and pursued doing to the property
17 expansion and improvements, we had expected to have a value
18 that could either be held or liquidated, of about a million-
19 seven. And we had an appraisal done; four million seven and a
20 quarter, subject to the completion of the improvements that
21 were filed for at the county and permits were drawn for and the
22 work was being done for. That appraisal has been submitted to
23 the Court, and that's the -- in conjunction with the Uinski
24 deposition and exhibits.

25 THE COURT: Okay.

1 (Pause)

2 MR. REED: If we go to the second page of this --

3 THE COURT: We're still talking about --

4 MR. REED: The same --

5 THE COURT: Exhibit 24?

6 MR. REED: Correct. There's sketch details underneath
7 a floorplan, or a diagram, of the property. They had living
8 square footage, first and second floor. And so I want to -- I
9 want to point out to the Court that the house -- I don't see
10 where -- there's something here. When we purchased the house,
11 it was 4,000 square feet, and I added the -- an extensive
12 addition off the back.

13 If you look at this drawing, there's three primary
14 squares or rectangles, and on the back of the house -- when we
15 purchased the house, it was the main house and then only a
16 first-floor element immediately off the back of the house. If
17 you look at that chart, it'll be, like, a twenty -- I think
18 it's a twenty-nine-by-twenty-four room. It was actually couple
19 rooms there.

20 And what I did to the property is I built completely
21 above that space and going back further. So if you see the
22 back box -- when I say "back box", it's actually the top in
23 this drawing. But, adding thousands of square feet to this
24 property.

25 We -- Stevie Watson, in her testimony, when you read

1 that, talks about what I added, as well. And I'm going to
2 now -- and the appraisal talks about that as well.

3 So I essentially added first-floor space or framed it
4 all out for first-floor space. It was intended to be enclosed
5 but our project was stopped before it was able to. That's
6 where you'll see in the -- that top box, which is the most rear
7 part of that house, it says, "Pat" for patio. And that was all
8 supposed to be a -- an enclosed heated space. We did all the
9 work for that. We just didn't -- I didn't -- I ran out of the
10 money before I could finish enclosing all of that.

11 And above -- so, behind that, then above that entire
12 double rectangle -- that double square, which is the entire
13 back half. And then a third floor on top of that. In the
14 chart, the sketch details, the third floor is not the full size
15 of the second floor, but it's 924 feet. The patio they have
16 listed as 1,000 square feet; that's -- was supposed to be
17 enclosed.

18 And then the second floor of that double square, which
19 is a rectangle, was a landing, like, a -- you know, a mezzanine
20 kind of space that allowed the staircase to go -- a receive
21 (ph.) staircase from below, and the staircase up to the third
22 floor. It had a lot -- we finished the laundry room completely
23 in there; we floored that. All in that area, sheetrock,
24 drywall, all the molding was done, the painting was done.

25 Then behind that, the remainder of it was a massive

1 master bedroom; I want to say it was about 1,200 square feet.
2 It had a sitting room, big bay window, columns. There's going
3 to be some photographs. I'm going to show you some of the work
4 that I did in that property. A large bedroom itself. Two-
5 story vault. That's why the third story is not same square
6 footage as the second floor.

7 THE COURT: Did you live in Virginia while you were
8 doing the renovations?

9 MR. REED: Part of the time, Your Honor. Part of the
10 time.

11 THE COURT: Where'd you live?

12 MR. REED: In the property and in the hotel. We moved
13 out -- I don't know if you recall from our previous trial;
14 Mr. Brett Cooper went under contract to lease and purchase my
15 New Jersey house. And so we moved out.

16 So I don't want to --

17 THE COURT: That's where you moved? You moved to this
18 Henrico, Virginia property?

19 MR. REED: Yeah, I went to a hotel first.

20 THE COURT: Okay.

21 MR. REED: And then we continue -- we had -- I had
22 done a lot of work. You can see, from the appraisal with --
23 you mind if I stand up for a second?

24 THE COURT: Please do. You just got to make sure
25 you're close enough to the microphone --

1 MR. REED: Yeah, yeah.

2 THE COURT: -- that we pick up your voice.

3 MR. REED: Not a problem. This'll be helpful for a
4 bit.

5 THE COURT: Yeah, just so the record is clear:
6 Mr. Reed is standing near the witness box. I've permitted him
7 to stand. Mr. Reed has health problems which make it difficult
8 for him to stand for long periods, so I have no problem about
9 his standing there.

10 Is that a fair statement?

11 MR. REED: Yeah.

12 THE COURT: Go ahead, Mr. Reed.

13 MR. REED: Down to all the gory details, yes, Your
14 Honor.

15 THE COURT: Okay.

16 MR. REED: The appraisal that Uminski did will also
17 show -- I'd like -- because I'm going to like to refer to that.
18 It's been admitted into evidence, I guess, second -- I'm going
19 to like to refer to that -- show that construction that I did
20 took place in -- primarily in two big spurts. There was work
21 in between as well, but not as consistently. We -- in '07 --
22 in '07, I think it's the latter half, all that demolition and
23 framing took place. It's 30,000 dollars in framing, lumber.
24 The cost to have it actually framed was about 40,000 dollars,
25 which 37,000 -- I think 37,500 or something like that, I paid.

1 The windows and doors, I think, were about 20,000 dollars.

2 Do you need me to repeat anything?

3 UNIDENTIFIED SPEAKER: (Indiscernible).

4 THE COURT: You better say it again, Mr. Reed. The
5 microphone'll pick up your voice if you're close to it, but not
6 if you're not.

7 MR. REED: Okay. So the framing materials, like the
8 studs, the beams, that was about 30,000 dollars. The framing
9 work was about 40,000 dollars, 37.5- of which I paid for the
10 lumber, I paid for the -- you know, the windows and doors,
11 those were about 20,000 dollars. The drywall and paint, best
12 of my memory -- I can't remember the painting cost, because it
13 was -- you know, it wasn't as large as these numbers. The
14 drywall -- I remember us picking up a ton of supplies -- that
15 was about 6,000 dollars.

16 And so in '07 we had dem -- did the demolition off
17 the -- you know, removing the roof of that whole back area, the
18 original one-story back area. And I bought all the materials
19 to frame and install windows and put the weather --
20 weatherproofing on the roof.

21 And then when we came down from New Jersey, I
22 continued that work. We did the -- in the -- when I came from
23 New Jersey, we did the drywall, because the house was framed
24 and it would sheathe -- sheathing is the exterior -- is the
25 exterior plywood, Your Honor; I don't know if you know that,

1 but that's the -- when you frame the house, it's all the --
2 it's all the skeleton; then you sheathe it, which is your
3 exterior -- is your plywood. And then you insert your win --
4 you insert your windows and then -- and exterior doors and then
5 you wrap the property in the weatherproofing underlaying it.
6 This goes below the siding we -- you can -- we can look at the
7 appraisal that was done in the beginning of '08; you could see
8 at that stage where we were.

9 Then when I -- we went to Virginia, we discovered
10 some -- there was some storm damage. There had been a leak in
11 the weatherproofing layer to the roof; I believe it was between
12 the -- where the old -- the new roof tied into the old roof,
13 and this wrecked a space in the main foyer. So we had to pay
14 for that. And we were in a hotel for a good amount of time,
15 because -- because of that. And I'll be showing you some
16 pictures of the house, interior, and afterwork that we did --
17 you know, we did to the house.

18 When we moved in, we then moved to the -- or as I was
19 in the hotel, and then we -- and then we moved in, we started
20 working on the interior space more heavily; we had the
21 insulation done. I can't remember the exact price of that.
22 That was -- I estimated it. I think that was about 3,000
23 dollars.

24 We did, you know, the drywall inside the interior
25 architecture; the interior moldings, interior doors. A lot of

1 the stuff in this property was dated. You'll see, to
2 corroborate my assessment of that and then my statement to that
3 effect, the Stevie Watson deposition will have testimony that
4 I've indicated, for the record, that talks about the -- what my
5 intentions were to buy the property. Ms. Watson was the
6 listing agent on that property and contacted me, knowing what I
7 had done with other properties that she was involved with, me
8 buying, selling and improving these properties. And she
9 thought that my talents and skill set would be appropriate
10 and -- for this particular property or just like it had been
11 for numerous others.

12 MS. HAGER: Objection. Move to strike some of that
13 testimony to the extent that it's hearsay and calls for
14 speculation on the part of Ms. Watson, as to Mr. Reed's
15 intentions.

16 THE COURT: Sustained.

17 MR. REED: Okay.

18 THE COURT: That portion of the testimony's stricken.
19 Go ahead, Mr. Reed.

20 MR. REED: Okay.

21 THE COURT: You can't testify about what somebody said
22 to you, at least without establishing a hearsay exception.

23 MR. REED: Okay.

24 THE COURT: What Ms. Watson did or didn't say to you
25 would be hearsay unless it falls within a hearsay objection.

1 But go ahead with your --

2 MR. REED: Okay, well, she says it --

3 THE COURT: -- account.

4 MR. REED: -- in her testimony, so I'll leave it --

5 THE COURT: Go --

6 MR. REED: -- to that.

7 THE COURT: Go ahead.

8 MR. REED: My train of thought now.

9 So I had a -- I had a pretty good vision of what we
10 were going to need to do to the property to bring the value of
11 the property to its potential. The property has a tremendous
12 curb appeal; it had a tremendous physical architecture; not
13 finished architecture. And I don't know if the -- to explain
14 to the Court the difference between what I call physical
15 architecture versus the finish. The physical is the -- like,
16 the actual layout of the property: a room to the left, a room
17 to the right, a foyer in the middle, a curved staircase,
18 two-story foyer; mezzanine and balcony areas.

19 What was missing in the property was that it was
20 undersized for that immediate marketplace, in my opinion. It
21 was -- and based on my experience, it was -- and research, by
22 the way, extensive research. And the interior treatments,
23 because the property was built in the '80s, were outdated for
24 the demands, I think, of the -- that current consumer pool or
25 base.

1 So, now we are looking at that and then having rough
2 ideas and then researched ideas as to how much it would cost to
3 do the work -- design, build and renovate and do the work to
4 the property. And then with all that in mind, I moved forward
5 with my wife to purchase the property; pulled the -- had the
6 design work done, pulled -- paid for all that design work --
7 that's what Mr. Sowder's deposition and exhibits are about --
8 and proceeded in -- along those -- along that path.

9 (Pause)

10 MR. REED: I think I'm done with this particular
11 exhibit. Let me look, Your Honor; I want to -- because I'm
12 going to continue to talk about that property, but I want to
13 look at a different exhibit. So, give me a moment before I
14 move to enter.

15 (Pause)

16 MR. REED: Your Honor, I think I'm -- at this -- I
17 have a procedural question. I can ref -- once it's admitted,
18 it doesn't mean I can't refer back to that exhibit again, is
19 that correct?

20 THE COURT: That's correct.

21 MR. REED: Okay. So I move to admit Exhibit 24.

22 THE COURT: Any objections?

23 MS. HAGER: No objections.

24 THE COURT: All right, Exhibit 24 is in evidence.

25 (Documents from County of Henrico re: 9000 Spring Brook Court,

1 4817 Cobblestone Landing Place, 133 Brookschase Lane, and 11617
2 Cobblestone Landing Court properties were hereby received into
3 evidence as Claimant's Exhibit 24, as of this date.)

4 (Pause)

5 THE COURT: May I ask you, Mr. Reed, are you changing
6 subjects now?

7 MR. REED: No. I'm going to try and stay on topic,
8 Your Honor, on the house.

9 THE COURT: All right.

10 MR. REED: That's what I'm going to try and do so I
11 don't --

12 THE COURT: Okay.

13 MR. REED: -- I don't confuse --

14 THE COURT: What we'll do is we'll continue until
15 11 o'clock; we'll take a recess -- a fifteen-minute recess at
16 11 o'clock. Just be careful with your computer. You --

17 MR. REED: I know; I was just -- I was --

18 THE COURT: You put it on the ledge behind you. I
19 just want to be sure --

20 MR. REED: Can I?

21 THE COURT: Yes, you can. I want to be sure that you
22 don't knock it off.

23 MR. REED: That's what I was just afraid of, because
24 when I flipped the book, it just moved --

25 THE COURT: You could set it on --

1 MR. REED: Thank you.

2 THE COURT: This okay?

3 MR. REED: Thank you.

4 (Pause)

5 MR. REED: Your Honor, if we can turn to tab 12. I
6 believe this is correct. Is tab 12 the deposition of Steve
7 Watson?

8 THE COURT: No.

9 MR. REED: Or is it the --

10 THE COURT: It's tab 13.

11 MR. REED: Tab 13. It's in a duplicate spot, for me.
12 Well, if we can look to 13. It should be an exhibit. It is
13 embedded within Ms. Watson's declaration. This is not about --
14 this is not about her -- the -- what I'm going to -- about to
15 discuss is not -- a reference is not the substance of her
16 stricken valuation and loss that was stricken in the motion in
17 limine prior to trial. This is a document that's contained
18 within her documents that I had a copy -- that I kept a copy of
19 as well, that she and I both had. And so I would like to refer
20 to that section of this exhibit.

21 THE COURT: I --

22 MS. HAGER: Excuse me.

23 THE COURT: I don't know what you're talking about.

24 MS. HAGER: Yeah. Sorry, Your Honor. Excuse me. In
25 my tab 13, I have the deposition transcript of Stevie Watson,

1 and the back page says, "See Watson declaration", but I
2 don't -- in this tab, I don't have her declaration or any of
3 the attachments thereto.

4 THE COURT: The Watson declaration and exhibits to it
5 are behind tab 12.

6 MS. HAGER: So we're talking about tab 12?

7 THE COURT: I don't know what we're talking about.

8 MR. REED: Yeah. It would be --

9 THE COURT: Mr. --

10 MR. REED: It would be --

11 THE COURT: Stop.

12 Mr. Reed directed the Court's attention to the Watson
13 deposition, which is not in evidence.

14 But when you started talking about exhibits to it, the
15 Court notes that the declaration of Stevie Watson, with
16 exhibits, the entirety of which is twenty-eight pages long,
17 appears behind tab 12, which is not in evidence, Mr. Reed. If
18 there're portions of the exhibits -- you're going to refer to
19 the Watson declaration, refer to the -- the page numbers at the
20 bottom of the Watson declaration and exhibits show pages 1 of
21 28, 2 of 28, through 28 of 28. Refer to page numbers at the
22 bottom of the page if you want to refer to portions of an
23 exhibit.

24 MR. REED: I would refer to tab -- again, so we're all
25 on the same page literally, tab 12, which was Exhibit 12, page

1 4 of 28. Should be the cover of an article of a -- of a
2 magazine.

3 THE COURT: I see it.

4 MR. REED: This -- to give you some sense of the
5 neighborhoods that I bought property in, this article was --
6 this magazine was given to me by Ms. Watson back in '07, I
7 believe it is, when we bought the house. If you look through
8 the article, the -- page 5 of 28 is the leading photo of the --
9 hold on a second. The magazine had an article within it,
10 called "Notable Neighborhoods", and page 5, 6 -- I don't know
11 why there's a blank in 7 -- 7 of -- 8 and 9, is the article
12 within the magazine that I -- is -- front cover, which is
13 depicted on page 4. The leading photograph of that article is
14 Old Dell Trace. The article discusses notable neighborhoods in
15 the Richmond market, in Henrico.

16 If we look at the -- page 6 of 28, paragraph -- you
17 can read the whole article. Paragraph 3 I'd like to draw the
18 attention to: "The River Road Corridor, stretching from the
19 Richmond city line and its eastern terminus, to Goochland
20 County in the west, charts a course along the James River.
21 Along the way, it encompasses many of metropolitan Richmond's
22 most prestigious addresses." Another sentence in that
23 paragraph: "These homes are not cookie-cutter construction of
24 new development but unique personal creations, each situated on
25 a spacious lot with well-established trees." I'm discussing

1 this article to give the Court an idea of the -- an
2 understanding of the actual neighborhoods that I bought lots
3 and houses in to do the work.

4 If we turn to page 8 of 28, the top photograph is
5 noted with the name "Windsor on the James". Windsor on the
6 James is where I owned an improved lot for 133 Brookschase.

7 (Pause)

8 MR. REED: Interestingly enough, also on page 8 of 28,
9 the lower-priced houses that were not above the million-dollar
10 range that I worked on and improved were also mentioned; that
11 neighborhood was mentioned in this article as a notable
12 neighborhood as well. If you look at the bottom of that
13 article, lower right, Twin Hickory is the subdivision where I
14 had the two Cobblestone properties that I -- they were part of
15 that facts record. I bought them and sold them.

16 And then the article talks about Henrico County
17 itself, the schools, the -- and the amenities and the
18 infrastructure, as to why it's a desirable -- is the desirable
19 county within the greater Richmond metropolitan market. Again,
20 I would like to offer this article and this section of this
21 Exhibit 12 into evidence to give the purpose of -- which is
22 solely to give the Court an understanding of the marketplace in
23 the neighborhoods in which I invested in, in Richmond.

24 THE COURT: So as I understand it, your offer is pages
25 4 of 28, to 9 of 28, in Claimant's Exhibit 12?

1 MR. REED: Yes.

2 THE COURT: Ms. Hager?

3 MS. HAGER: Your Honor, I have an objection.

4 THE COURT: Just -- I only listen to -- make your
5 legal objection. I don't want to hear speaking objections.

6 MS. HAGER: Authenticity. It's missing a page. And
7 there seems to be an addition on page 5.

8 THE COURT: The addition on page 4 is the box that
9 says, "Frank Reed property" with the address?

10 MS. HAGER: I would think so.

11 MR. REED: Your Honor, I -- in my record, I had -- I
12 used this -- like, a label --

13 THE COURT: All right.

14 MR. REED: -- to put that on.

15 THE COURT: So you added the box with the street
16 address -- your name and the street address?

17 MR. REED: Correct. Correct, Your Honor.

18 THE COURT: All right. What are your other
19 objections, Ms. Hager?

20 MS. HAGER: No further objections.

21 THE COURT: All right, then in Claimant's Exhibit 12,
22 pages 4 of 28, to 9 of 28, are in evidence; only that portion.
23 (Pages 4 of 28, to 9 of 28, of Claimant's Exhibit 12, were
24 hereby received into evidence, as of this date.)

25 All right, let's take our morning recess until 11:15.

1 You can leave all your papers there if you want. Then talk
2 with Ms. Hager about the portions of the testimony -- I guess
3 it's both -- it's from two depositions, really; it's both the
4 Clampitt testimony and the Watson testimony.

5 MS. HAGER: Your Honor, if Mr. Reed wants -- I know he
6 wrote out a list of the pages and lines. If he wants to leave
7 that with me when he goes to use the restroom, I can -- I don't
8 think I need time to discuss it with him. I can --

9 THE COURT: That's fine.

10 MS. HAGER: -- go through it.

11 THE COURT: Okay. Could you do that, Mr. Reed? Could
12 you give the designations to Ms. Hager and let her look at
13 it --

14 MS. HAGER: I promise --

15 THE COURT: -- while you --

16 MS. HAGER: -- I won't look at any other pages --

17 MR. REED: No -- can I photograph them and email them
18 to you. I'll just --

19 THE COURT: No, just --

20 MR. REED: -- take a picture --

21 THE COURT: Could you just let her look at it?

22 MR. REED: Yeah. It's in a book of other stuff;
23 that's --

24 MS. HAGER: I won't turn the page.

25 MR. REED: Okay.

1 THE COURT: Okay. Let's take our recess. We're going
2 to take a recess until twenty after 11, okay? All right.

3 (Recess from 11:02 a.m. until 11:28 a.m.)

4 THE COURT: All right. Court's back in session.

5 Mr. Reed, you're still under oath.

6 MR. REED: Your Honor, Ms. Hager and I went through
7 and clarified something on one of the depositions as well,
8 during the break, for Clampitt.

9 THE COURT: All right, so you want --

10 Ms. Hager, you're prepared to address that now?

11 MS. HAGER: I'm not completely through Clampitt, but I
12 can do Watson.

13 THE COURT: All right, let's -- why don't we do this:
14 let's -- we'll do both, either -- we'll do it right after
15 lunch, okay?

16 MS. HAGER: Okay.

17 THE COURT: So you can finish going through -- we'll
18 do both right after the lunch break, okay?

19 MR. REED: Okay.

20 THE COURT: All right.

21 MR. REED: Your Honor, at this time I want to remind
22 the Court that -- I was asked to make sure I had an additional
23 witness. Mr. Maines is, I understand, on his way.

24 THE COURT: Okay. What we'll do is, when Mr. Maines
25 comes, we'll take his testimony out of order, even if Mr. Reed

1 hasn't completed his testimony, so that Mr. Maines doesn't --

2 MR. REED: He'll be --

3 THE COURT: -- doesn't have to wait; we'll put him on.
4 Hopefully it'll be faster. And when his testimony's complete,
5 Mr. Reed, if he hasn't finished his testimony, will resume the
6 stand. Okay?

7 MR. REED: Your Honor, is -- this is a logistics
8 question: Mr. Maines provided a declaration. Are we doing
9 that standard format where his declaration is offered and then
10 they do the --

11 THE COURT: Cross-examination.

12 Ms. Hager?

13 MS. HAGER: That's fine, Your Honor.

14 THE COURT: Okay. All right, so we'll -- he'll take
15 the witness stand, he'll be sworn, you'll offer his declaration
16 as his direct testimony, Ms. Hager can conduct her cross-
17 examination and then, if there are appropriate subjects for
18 redirect, you're entitled to do that. Okay?

19 All right, so you can tell Mr. Maines, when he comes,
20 the logistics of how that'll be handled, and we'll take him out
21 of order to make sure that his testimony occurs expeditiously.
22 Okay?

23 All right, so let's go back, Mr. Reed, back to your --
24 and let me just add: if Mr. Maines is here ready to go before
25 we deal with the Clampitt and Watson depositions, we'll wait

1 until Mr. Maines is finished. So we'll take him as soon as we
2 can.

3 Okay. Go ahead, Mr. Reed.

4 MR. REED: Believe it or not, I don't -- where did we
5 end? We ended with the -- was it the --

6 MS. HAGER: The --

7 MR. REED: Was it the submission of the article? Is
8 that where we left off?

9 THE COURT: The portion of the article in Claimant's
10 Exhibit 12, pages 4 of 28, to 9 of 28, are in evidence. That's
11 where we concluded, according to my notes.

12 MR. REED: Okay.

13 THE COURT: I know, Mr. Reed, that you need to --
14 you're entitled to, and I'm trying to give you, leeway in
15 providing your testimony, but you need to try and move it along
16 faster.

17 Are you finished with the article?

18 MR. REED: I am done with the article.

19 THE COURT: Okay.

20 MR. REED: Okay. I would like to turn to the Uminski
21 deposition and exhibits; tab and Exhibit 19.

22 (Pause)

23 MR. REED: I would like to turn to page 2 of 18, at
24 the bottom of the page of the -- it has the -- it's the first
25 page of the appraisal. Hopefully we all have the legible

1 copies now.

2 THE COURT: Yes. Go ahead.

3 MR. REED: I'd like to note, in a notation of the
4 neighborhoods, so it's the -- there're sections to an
5 appraisal. On the left-hand side of the appraisal, you'll
6 see -- they're in a black bar, written vertically: Subject,
7 Contract, Neighborhood. So, Neighborhood, there're some notes
8 in there. Second -- says, "Neighborhood description: The
9 subject is located in the prestigious far west end. Demand for
10 real estate is consistently some of the highest in the Richmond
11 metro area."

12 Further down, it talks about market conditions. Says,
13 "Current market conditions are considered to be favorable at
14 this time. Supply and demand appears to be in balance."

15 We go down to the Site section. "The site is very
16 well landscaped, with mature trees and shrubs. There's an
17 exposed aggregate walk to the circular drive."

18 (Pause)

19 MR. REED: If we go down to "Improvements", this time,
20 as I testified, we had already done the framing and sheathing.
21 I'll point to photographs that indicate that.

22 The -- finished; above grade. Contains thirteen
23 rooms, seven bedrooms, seven and a half baths; 7,289 square
24 feet; above grade.

25 Little bit below that, describe the condition of the

1 property. In that section, it's written, "The subject is a
2 very well-constructed colonial-style dwelling that has recently
3 been renovated; had a rear addition added. As of the date of
4 inspection, construction was approximately sixty percent. No
5 functional or extreme absolescence" -- "obsolescence was
6 observed". And it says, "Are there any physical deficiencies
7 or adverse conditions that affect the livability, soundness or
8 structure or integrity of the property?" "No."

9 (Pause)

10 MR. REED: I'd like to note on page 3 of 18 under
11 Sales Comparison Approach, the value was placed by the
12 appraiser at 1,725,000 dollars. And I would like to also note,
13 so the Court understands, we asked for this appraisal at the
14 time to firm up the value of the property upon completion.

15 If you look at "Reconciliation" on the next bottom
16 section, it's called a "subject-to" appraiser. They will often
17 relate -- people in the profession will refer to it, and based
18 on us completing the work.

19 (Pause)

20 THE COURT: What work remained to be done at the time
21 that this appraisal was done, Mr. Reed?

22 MR. REED: As I was saying, this -- the -- at this
23 time -- we can go through -- let's go to the photographs. That
24 should show some of that.

25 THE COURT: Could you just describe it for me and --

1 just describe it briefly for me, if you would?

2 MR. REED: Sure. As a said before, we did the
3 framing, the sheathing -- if you go to 10 of 18 -- 10 and 11 of
4 18. Subject rear -- this is the back of that --

5 THE COURT: You're looking at page 10 of 18 --

6 MR. REED: Yes.

7 THE COURT: -- the middle photograph.

8 MR. REED: Yes.

9 THE COURT: Subject rear. It appears to show the
10 ongoing construction at the rear of the house. And the framing
11 and sheathing has been done?

12 MR. REED: Yes. And if you want to look at page 11 of
13 18, subject side view, addition --

14 THE COURT: All right, I see these photographs. I
15 think you've answered my question. Go ahead with your --

16 MR. REED: Yeah, yeah. So just to -- just to clarify
17 something on that, Your Honor. The very bottom right-hand
18 section there's a -- you see a chimney and a window and a wall
19 there. That was the original first floor back section of the
20 house. So you had the full house into the front to the right,
21 and then you only had this little back room area. And the
22 chimney was a short chimney.

23 So we excavated to the left into the hillside, poured
24 all the foundations, the concrete, brick -- a knee wall, a
25 retaining wall, raised the chimney, framed out all the addition

1 above, sheathed it, waterproofed it, put all the windows in it.
2 The only interior living space that wasn't done at that time,
3 because the windows we had wanted were not available like we
4 thought they would be, is the -- is the -- what was going to be
5 the sunroom.

6 So if you see the next section, you see the chimney
7 then the window to the left of the chimney, and then there's
8 this whole dark area in the photograph where you could see a
9 couple of columns in there. The house is not floating in the
10 air. It's all supported --

11 THE COURT: May I ask you this? How many square feet
12 did you add?

13 MR. REED: 3,500 square feet.

14 THE COURT: All right. And when this appraisal was
15 done, can you give me an estimate of how long you anticipated
16 until completion of the addition and remodeling? You were
17 acting as the general contractor?

18 MR. REED: Yes. Yeah.

19 THE COURT: Did you -- can you provide me with an
20 estimate of how much time you anticipated to complete the
21 addition and renovations at the time this as-of appraisal was
22 done -- or subject-to appraisal, not as-of. Subject-to.

23 MR. REED: Yeah. Yeah. It depends on the -- Your
24 Honor, that was -- that's dependent on the contract -- the
25 subcontractors and the -- and the permitting authority, when

1 they can come and see this. I mean, it varies widely --

2 THE COURT: It's really -- I'm asking you a pretty
3 simple question. If you don't have an answer, that's okay. Do
4 you have -- did you, at that time -- at the time that this
5 subject-to appraisal was done, what was your best estimate of
6 how much time was going to be required to complete the addition
7 and renovations to the property? And if you didn't have an
8 opinion about it, just tell me that.

9 MR. REED: I don't remember. I mean --

10 THE COURT: Okay. Go through all of your testimony.

11 MR. REED: I mean, we thought it -- thought it'd be a
12 few months, but I can't tell you if it was --

13 THE COURT: Okay, just go on with your testimony, Mr.
14 Reed. You've answered my question.

15 (Pause)

16 MR. REED: If you can -- if you go to 15 of 18, you
17 can see the -- you know, the footprints of the -- of the living
18 space. The -- oh, I'm sorry, let me try this.

19 You can see -- I'm sorry, let's go to 14 of 18. I
20 apologize for that. 14 of 18, the appraiser indicates, based
21 on our conversations and the plans that were submitted, if you
22 look at the top footprint, it says -- the very top word in the
23 very back section of the house is that area that didn't get
24 framed in and sheathed because we didn't have the right -- or
25 the windows had been not available or discontinued. So -- but

1 it was supposed to be, in the terms of the work, like a
2 sunroom. He calls it a den. But that's the -- that space that
3 was uncovered -- that was unenclosed yet, at that time. But
4 the intention was to -- to enclose it, so.

5 And in the 15 of 18, you can see on the second floor
6 how I was describing the layout, that there was an upper -- he
7 calls it a foyer. It's an -- in that whole section in the
8 back, starting from the bottom of that section going forward,
9 he calls it a foyer. It was an overlook looking down into the
10 curved staircase. There's a laundry room right -- to the
11 right, stairs going up. There's a sitting room, and then the
12 master room -- bedroom is in the back, and then there's a full
13 bath. That full bath was plumbed out, framed out, drywalled in
14 the bathroom. The Jacuzzi tub was dropped in and attached.
15 All the -- all the plumbing for the showers -- it had multiple
16 heads and sprays -- were all roughed in. There was two
17 toilets, one his and hers, were roughed in. The double -- two
18 vanities and sinks were roughed in.

19 For the record, I don't know if the court means what
20 "roughed in" means, but --

21 THE COURT: I do.

22 MR. REED: Okay.

23 THE COURT: Go ahead.

24 MR. REED: All right. But the walls themselves were
25 painted, moldings were in, doors were hung, closets stuff were

1 hung. In the -- in the back master bedroom, the hardwood floor
2 was in. The fireplace was in. The drywall painted. But
3 the -- but the marble for the sitting room, the marble for the
4 master bath, the marble for the walk-in closet, that wasn't
5 done. And the hardwood staining wasn't done for the second
6 store -- second floor foyer.

7 The laundry room was done. That was tiled. The
8 cabinets were in. The washer and dryer were functional. You
9 know, I actually -- like I said, we had to stay there for a
10 while.

11 The third floor, which is page 16 of 18, that's a
12 bedroom -- a big -- a large third-floor like in-law suite
13 bedroom. Big -- had its own little -- little foyer, coming up
14 the top steps to the right. It had double doors. Big -- big
15 boxed out window. You can see -- on those exterior side
16 pictures, you can see the large windows that were put in. And
17 that was a high vaulted ceiling. It had a full bath, double
18 sinks, built-in seat for the -- for the bathroom. That was all
19 done. All that -- that was living -- you could live in that
20 space -- excuse me.

21 I think that's it for now on the -- on the -- in my
22 references to the -- to the appraisal. Let's see.

23 (Pause)

24 MR. REED: I want to make sure I'm doing -- it's the
25 right one. And that -- let's see.

1 The Uminski appraisal was just -- just to understand,
2 was admitted into evidence.

3 THE COURT: Yes, it was.

4 MR. REED: Yeah, okay. So forty -- sorry I'm trying
5 your patience, Judge. I want -- these are a lot of details I
6 think -- I thought you need to know. Tab 44 --

7 THE COURT: Claimant's Exhibit 44 are five
8 photographs. Is that correct, Mr. Reed? Is that what you're
9 referring to?

10 MR. REED: Yes. I wish I had more. This is offered
11 to show the -- a condition of the house existing and during
12 work. This also shows the water damage that was done in the
13 house from that roof leak. It was contained to the foyer area
14 right below -- the primary floor area, right below --

15 THE COURT: This was in the existing construction
16 rather than the addition that you were putting on?

17 MR. REED: Yes. Yeah. But I -- but I had to -- you
18 know, when this happened, I had to pay cash out-of-pocket for,
19 you know, the work. You know, it's something we had to -- we
20 had to deal with.

21 THE COURT: How old was the house? Obviously I'm
22 referring to the original construction?

23 MR. REED: Twenty -- twenty years.

24 THE COURT: All right. When were these photographs
25 taken?

1 MR. REED: These were -- in '08. I can't remember
2 when. Later in '08.

3 THE COURT: They were taken sometime in 2008?

4 MR. REED: Correct. So in other -- in other words,
5 Your Honor, as I had said before, we had done this work, and I
6 believe the tie-in of the roof from the addition to the back of
7 the house and the existing house, the roofing guy told me that
8 it was -- I don't know if I could say what he told me but he
9 said -- we determined that it appeared to be failure of
10 flashing or something like that in the roofing area there.

11 THE COURT: Where the old roof met the new roof?

12 MR. REED: Yes. But it -- you know, trying to also
13 show that -- if you go to page --

14 THE COURT: Did you have insurance that covered the
15 damage?

16 MR. REED: Eventually they did. We did.

17 THE COURT: How much did you collect on the insurance?

18 MR. REED: I don't remember.

19 THE COURT: All right, go ahead.

20 MR. REED: It was -- 20,000, 30- -- I don't remember.
21 That was much later. I think that was in two-thousand -- by
22 the time that happened -- '10 or '11.

23 Because we had construction insurance on it too. I
24 mean, it's not the regular insurance. I had -- we had did
25 additional insurance because you're -- you know, you're doing

1 renovations to it too. You want to make sure it's declared and
2 everything, you're going to be working on it.

3 THE COURT: Who took the photographs?

4 MR. REED: I thought I -- I took these photographs.
5 And then the -- if you look at the number 2 -- no -- yeah.
6 Number 2 --

7 THE COURT: Is that insulation material that was
8 pulled out?

9 MR. REED: Yeah, yeah. That's where the roof fell
10 through.

11 But if you look in the back, you can kind of see -- to
12 the back to the next section --

13 THE COURT: I don't know what you mean.

14 MR. REED: If you look at page number 2, picture
15 number 2, to the right --

16 THE COURT: Yes.

17 MR. REED: -- look to the room behind the foyer, and
18 it's just -- I'm just drawing your attention to the -- like we
19 had to do supporting columns. And you could look out the
20 window, and you'll see the brick wall that was put in, the
21 retaining wall for that expansion, you know, that den area.

22 Okay. And this -- I want you to see the -- if you
23 look at page 1 --

24 THE COURT: The first photograph?

25 MR. REED: Yes, page -- the first photograph. When

1 you walk in the front door, I want you to notice how this --
2 there's just a railing, like a -- like a thinner oak railing
3 with some white spindles. And I'm going to do a comparison
4 with some photographs. I'm going to then show the work that we
5 did in the -- in the -- as part of the overall renovation.
6 And --

7 THE COURT: Is that looking up at a balcony on the
8 second floor?

9 MR. REED: Correct. So when you walk in the front
10 door -- if you look at page 2, Your Honor --

11 THE COURT: That's the stairway up to the second
12 floor?

13 MR. REED: Correct. The stairway comes -- this is a
14 bridge that runs in front of the stairway, and the stairway
15 comes up --

16 THE COURT: Is that between the existing construction
17 and the new addition?

18 MR. REED: Correct. The new addition is in the back.
19 The last photo, for example, is if you're standing in
20 the new addition looking down -- there was like a -- there was
21 a front foyer and a back foyer. This is like looking down the
22 spiral staircase and that's the back end of the foyer and
23 that's the front end of the foyer. The foyer was -- you can
24 count the tiles -- I think it was ten by twenty-four, twenty-
25 six, or something like that.

1 And then you'll -- in this photograph, you can see the
2 dining room to the left and the opening to the formal living
3 room to the right. And if you want to look at that, there's
4 even -- you can see that -- where we cut that opening further.
5 We have the base plates there that were existing, and we later
6 cut those out. And I'm going to show you some photographs of
7 that same area, and you'll see the kind of work that we did at
8 that -- what kind of progress we made.

9 So if there are no objections, I'd like to offer the
10 photos of 44.

11 THE COURT: Ms. Hager?

12 MS. HAGER: No objection.

13 THE COURT: All right. Claimant's Exhibit 44,
14 consisting of five photographs, are admitted into evidence.
15 (Five photos were hereby received into evidence as Claimant's
16 Exhibit 44, as of this date.)

17 MR. REED: Let's see.

18 (Pause)

19 MR. REED: If we can turn to tab 34? Your Honor, I --
20 on the matter of, again, logistics, I was -- I wanted you to
21 have the color copies.

22 THE COURT: I'm fine with the black-and-white copies.

23 So Claimant's Exhibit 34 consists of, I think it's
24 seven photographs. Is that correct, Mr. Reed?

25 MR. REED: Yes. Oddly enough, if we can look at the

1 back, the last photograph, I guess number 7.

2 Your Honor, I'd really like it if you had the color
3 ones.

4 THE COURT: We can substitute them later. Go ahead.
5 I'm looking at it. I think I see it pretty clearly. Go ahead,
6 Mr. Reed.

7 MR. REED: That's the same view that those two
8 photos -- yeah, if you --

9 THE COURT: All right. I see which way it goes. I
10 see the stairway going up and the chandelier.

11 MR. REED: Yeah.

12 THE COURT: I see it.

13 MR. REED: Okay. That's the -- that's the same view,
14 now, of those two photos we were just discussing.

15 THE COURT: Is this after the roof was fixed?

16 MR. REED: This is after the roof was fixed. This is
17 after we continued our -- you know, our work. You could see,
18 we replaced the staircase, we did all the moldings, the -- I
19 custom designed the -- many of those moldings. Mr. Suhr was a
20 millwright that we -- I taught him my templates to things that
21 I wanted done. He worked extensively on the properties, among
22 a plethora of other contractors.

23 But there's -- you know, there's -- you can see the
24 difference -- I would hope you could see the difference between
25 a bare oak railing and now, you know, walls being built with

1 custom molding, openings. If you could see back through that
2 staircase to the addition in back, it's -- that's what I'm
3 saying about the color, Your Honor. Because you can see the
4 painting is done.

5 THE COURT: All right. I'll tell you what, Mr. Reed.
6 Do you have all seven photographs?

7 MR. REED: I do. I do. Please. I am sorry. I know
8 it's bugging me.

9 THE COURT: That's all right.

10 MR. REED: And one of your books has it. I'm pretty
11 sure. It's probably the extra --

12 THE COURT: Actually, my clerks have it, and I'll
13 switch pages with them. I now have the color copies, Mr. Reed.

14 MR. REED: Thank you so much. I think they really
15 make a difference.

16 THE COURT: Okay. I have the color copies in my book.
17 So we're clear, for Claimant's Exhibit 34, I've just
18 substituted the seven pages with my law clerk who had the same
19 binders but with color copies. I had black-and-white. Now I
20 have the color copies in front of me.

21 MR. REED: Your Honor, if you look at the lower right
22 part of that photograph --

23 THE COURT: Which photograph?

24 MR. REED: I'm sorry. I'll wait till you're done
25 there.

1 THE COURT: Yeah, just tell me which one?

2 MR. REED: The page 7 that we were just looking at.

3 THE COURT: All right. Just let me get them in my
4 binder. Go ahead, Mr. Reed.

5 MR. REED: Remember those two bare columns in the
6 concrete floor that I pointed to in the previous picture
7 showing that we had put structural columns in because of the
8 expansion? You can see those are finished. The family room
9 flooring is in. It's a livable space.

10 If you go to page 6 you could see that -- the family
11 room, the ceilings are done, the moldings are in.

12 THE COURT: Is the family room part of the old
13 construction or the new construction?

14 MR. REED: This is all -- this space existed when I
15 purchased the house. It was a single-floor space. We ripped
16 the roof off completely. The only thing that was left in this
17 space was bare concrete floor and sunshine. You understand?
18 There was no drywall. It was taken down to the studs. There
19 was just sheathing.

20 THE COURT: But this -- I understand the work you said
21 you did in it. But this was part of the existing old
22 structure? This room was in the existing old structure. This
23 was part of the remodeling as opposed to the addition. Am I
24 correct in that?

25 MR. REED: Right. The addition was above it --

1 THE COURT: Okay, all right.

2 MR. REED: -- and behind it.

3 THE COURT: Okay.

4 MR. REED: But this was -- the only thing that
5 remained of this exist -- of the existing space was the actual
6 studs in the walls.

7 THE COURT: Okay. You furnished the room?

8 MR. REED: Yes. If you see through the --

9 THE COURT: Because the photograph 1, is that a
10 television that's on the mantle?

11 MR. REED: Yes, sir.

12 THE COURT: It's a wide-screen television on the
13 mantle. And the room appears, in the photograph, to be
14 completely furnished. You furnished the room?

15 MR. REED: This is furnishings I owned before, but --

16 THE COURT: Okay.

17 THE COURT: From New Jersey?

18 MR. REED: Correct, Your Honor. I didn't buy it new.

19 THE COURT: Right, you moved out of the house, the
20 Matlack property you thought Cooper was renting -- Cooper was
21 renting. So that's when you moved down to Virginia?

22 MR. REED: Yes.

23 THE COURT: And these were your -- had been your
24 furnishings at the Matlack property?

25 MR. REED: Correct. We didn't buy new.

1 THE COURT: Okay. I'm just trying to understand.

2 Okay. Go ahead.

3 MR. REED: Yeah, I mean --

4 THE COURT: Go ahead.

5 MR. REED: Spending was limited to living expenses and
6 construction.

7 THE COURT: Okay, just go on. I'm just trying to
8 understand, because you showed me a completed room, renovated
9 in the old structure, furnished, and that was the reason for my
10 questions. Go ahead.

11 MR. REED: Okay. But you can see the extent -- the
12 extent -- the moldings that we would do, that are commensurate
13 with those kind of properties in that area. This was discussed
14 with the appraiser. This was discussed with the realtors.
15 This was, you know, and in my opinion, relevant or appropriate
16 for all the -- that market and pricing of the properties that
17 customers would want. It had found success with these types of
18 work prior. And they include, you know, not just wall trim.
19 It's the windows, the surrounds around the windows, the
20 fireplace stuff.

21 Now, if you look out the back window, this is a clear
22 example of that back section. And you'll see the brick wall
23 that the land had been excavated from and the brick retaining
24 wall, just beyond the structure of the addition. And the
25 ceiling, that's insulation. If you --

1 THE COURT: Which photograph are you looking at?

2 MR. REED: This is number 6, the family room.

3 THE COURT: Okay.

4 MR. REED: Yeah, that's -- but see, I was just showing
5 outside you can see that space and it was not yet completed.

6 THE COURT: All right. Go ahead.

7 MR. REED: So if we could go to 2 of -- the second
8 page --

9 THE COURT: The second photograph?

10 MR. REED: The second photograph, yeah.

11 THE COURT: Okay.

12 MR. REED: The front door is to the left. If you go
13 through that archway, the front door is to the left. So you
14 would come in, the staircase and the bridge were above -- you
15 know, in front of you. There was actually a mezzanine right
16 above your head, too. It connected two bedrooms and had a door
17 to the front exterior second-floor balcony.

18 This is -- these moldings you see here, the arches are
19 the ones I designed. I do the drawings for it itself. The
20 built-ins, if you look through to the formal living, the built-
21 ins, fireplace, all that -- all that design work I do, and I
22 hire the local skilled craftsmen to execute my drawings.

23 If you go to the first page --

24 THE COURT: Could you just tell me, on that second
25 photograph, from what room is the photograph taken?

1 MR. REED: It is taken from the dining room, but
2 looking across to the --

3 THE COURT: The entrance hallway crossing to the
4 living room?

5 MR. REED: Yeah.

6 THE COURT: Okay.

7 MR. REED: Yeah, to the formal living room. Here's
8 the formal living room.

9 THE COURT: The first photograph is the formal living
10 room?

11 MR. REED: Formal living room, yes. And the --

12 THE COURT: Again, that's within the original
13 construction?

14 MR. REED: That's within the original, which was, you
15 know, in the scope of what we were doing from the -- from the
16 beginning. The ceiling -- the ceiling treatments -- like when
17 I say "treatments" -- see the coffering in the ceiling? That's
18 what I would do, too.

19 (Pause)

20 MR. REED: Five, Your Honor, is -- is this the photo
21 you have for 5, the fifth picture?

22 THE COURT: Looking into the dining room? Yes.

23 MR. REED: Now, this is not -- this is standing in the
24 dining room. So in that -- in that original -- when you said
25 what perspective it was, we're standing in the formal dining

1 room looking across the -- the entry foyer into the formal
2 living room. If you were standing in this space and turned
3 right, you would see this, another matching archway. This
4 space is the kitchen space and the breakfast room.

5 THE COURT: Okay.

6 MR. REED: So this was demolished and all the new
7 flooring was put in, all these moldings were put in -- because
8 remember, all the ceiling -- that's all new back there. And so
9 the breakfast room ties into the kitchen. The kitchen is in
10 the foreground, the breakfast room is in the back, again.
11 You're looking out the rear of the property. There's that
12 brick retaining wall again and the -- out that window is the --
13 where the appraiser called it the den, but I refer to it as
14 a -- it was going to be a big enclosed sunroom.

15 And then even the ceiling, all that -- all the
16 beadboard on the ceiling, we had done that. The kitchen was at
17 a point where we needed the countertops, cabinets, and
18 appliances.

19 Number 4 -- unfortunately I don't have more of these
20 pictures -- but number 4 is a photograph of the fireplace in
21 the master bedroom. Again, this is all -- and it shows the
22 moldings, the architecture --

23 THE COURT: Was the master bedroom in the old
24 construction?

25 MR. REED: No, that's in -- remember that's --

1 THE COURT: In the new construction.

2 MR. REED: -- that's all in the new --

3 THE COURT: All right.

4 MR. REED: -- that's all in the -- remember I said it
5 was a vaulted ceiling. You can look to the left of the
6 fireplace the top picture.

7 THE COURT: Is this master on the main floor or the
8 second floor?

9 MR. REED: The second. It's above the -- it's
10 above -- it starts above the family room.

11 THE COURT: All right.

12 MR. REED: And then it goes -- this particular back
13 section where the bed -- where the bed is, the fireplace is,
14 past the sitting room, is above that den area that wasn't
15 finished, you know, that last part. And that's what I --
16 that's what I have in terms of the pictures of Old Dell Trace.

17 And I have a text that Mr. Maines is here. We're now
18 about lunch --

19 THE COURT: Well, we're going to take a lunch break at
20 12:30.

21 MR. REED: Okay. And I move that we --

22 THE COURT: If you want to text -- if you want to take
23 just a second and text him back, go ahead and do that.

24 MR. REED: Okay.

25 THE COURT: You can tell him we're going to take a

1 lunch break at 12:30.

2 MR. REED: You know, Your Honor, I don't know if he's
3 getting this. I'll wait and see. I'll tell you. Because if
4 he came through security, they would have taken his phone.

5 THE COURT: They would have taken his phone.

6 MR. REED: So --

7 THE COURT: Did you tell him where the courtroom is?

8 MR. REED: It's in the subpoena.

9 THE COURT: Okay. All right.

10 MR. REED: I put the courtroom number.

11 THE COURT: All right. Well, we'll see whether he
12 comes up. Go ahead. We're going to take -- ten more minutes,
13 we're going to take the lunch break.

14 MR. REED: Your Honor, I have a -- I'd like to -- I'd
15 like to show you what's 35 -- tab 35.

16 THE COURT: All right. Claimant's Exhibit 35?

17 MR. REED: Oh, did I move these -- get entered into
18 evidence?

19 THE COURT: No.

20 MR. REED: Let's do that before I get distracted.

21 THE COURT: Ms. Hager?

22 MS. HAGER: No objection.

23 THE COURT: All right. Claimant's Exhibit 34, it's
24 seven photographs, is in evidence.

25 (Seven photos were hereby received into evidence as Claimant's

1 Exhibit 34, as of this date.)

2 THE COURT: Mr. Reed, I mean -- I'm giving you a lot
3 of leeway, and I know you believe it's important to show all of
4 the work and construction in the photographs. I'm not sure
5 that Ms. Hager is -- I don't know that the Trust is disputing
6 the work you did or the addition, the renovations you did to
7 the property. But I'm not -- I'm letting you put your evidence
8 in. But you're taking a lot of time showing the work you did
9 on the Old Dell Trace property. I'm not going to cut you off,
10 but I just -- go ahead.

11 Are you -- Ms. Hager, are you disputing the
12 substantial work and renovations that were done on Old Dell
13 Trace?

14 MS. HAGER: No.

15 THE COURT: Okay. I didn't understand from the pre-
16 trial order or otherwise that the work you did, the addition,
17 the remodeling, the beautiful construction your photographs
18 show, is really in dispute. So but go ahead.

19 MR. REED: Okay. I'm trying to comprehend how that --
20 what that means in terms of what I think I'm doing here.

21 THE COURT: Well, you can --

22 MR. REED: So at lunch I'll think about what you're --
23 what you said and try and process that.

24 THE COURT: I mean, I think -- Ms. Hager can speak for
25 herself, but from reading the papers, my understanding is the

1 Trust disputes that the purchase or renovation costs for the
2 Old Dell Trace property are in any way compensable losses or
3 damages in the trial we have. Is that a fair statement, Ms.
4 Hager?

5 MS. HAGER: Yes, Your Honor.

6 THE COURT: And on your theory of the case, you -- I'm
7 not precluding you from putting in what you believe -- I think
8 you've already put in what you paid for it. And you put in
9 yesterday through deposition testimony from the lumberyard, the
10 amount that you had put in and things that they had supplied
11 and various other evidence you put in yesterday. So I mean,
12 that's in evidence.

13 I think what I understood the Trust's position to be
14 is none of that is compensable damages. I'm not making any
15 decision about that now, but I don't think the Trust is
16 disputing the work you did in the renovations -- and when I say
17 renovations, the substantial addition. You testified about
18 that. While it hadn't been completed, you showed many of the
19 photographs of work that was completed.

20 So I'm not -- again, I'm not cutting you off, Mr.
21 Reed, but there are issues that are disputed, but I didn't
22 think this was among them. But go ahead. We've got five
23 minutes before the lunch break.

24 Is that a fair statement, Ms. Hager, what I just said?

25 MS. HAGER: Yes, Your Honor.

1 THE COURT: Okay.

2 MR. REED: I think that's -- to that point, I think
3 we'll be discussing -- Mr. Curley, Mr. Maines, Joan Kline --
4 and how those things had an impact on my ability to finish.
5 I'm trying to demonstrate to the Court how -- what stages
6 were --

7 THE COURT: Sure.

8 MR. REED: -- we're at, and what had to be done.
9 Because you know, if -- hypothetically speaking, if all I had
10 to do was put a welcome mat on the front door for 5.99, then
11 how could their acts interfere with that. But if there was
12 more substantial work that had to be done, and their acts
13 interfered with my funding of that -- that's what I've been
14 putting forth here -- then that's where the --

15 THE COURT: Okay. I'm not -- again, Mr. Reed, I'm not
16 precluding you.

17 MR. REED: So I thought I had to show the foundation
18 of that.

19 THE COURT: Go ahead.

20 MR. REED: On 35, this is a -- just some interior
21 photos. Again, these go to demonstrating, just like the
22 property records show that I'm in the business of buying and
23 selling and renovating, this is just some photographic evidence
24 of work that I did --

25 THE COURT: You're now referring to Exhibit 35?

1 MR. REED: Yes, 35.

2 THE COURT: Okay.

3 MR. REED: And this is historical work. This is
4 from -- this is from the Matlack property.

5 THE COURT: These are photo -- Exhibit 35 are
6 photographs of Matlack?

7 MR. REED: Yes. And Matlack, I had purchased -- all
8 the real estate that I purchased, to be clear, whether -- if
9 it -- I don't reside in it or I just rent it or I reside in it
10 and then sell it and rent it, I look to buy a property that is
11 improvable. Even if it's new, it's improvable in the val -- in
12 the sense that it will bring true market and comp value as
13 well.

14 So like Old Dell Trace was an older neighborhood, more
15 mature neighborhood. Twin Hickory, some of those houses were
16 in a newer neighborhood. That was a newer neighborhood.
17 Matlack was a -- was a new construction house. But Matlack had
18 the larger houses in that neighborhood that allowed me to
19 invest more money to expand the square footage and the -- and
20 the accoutrements, the architecture in it, to bring up the
21 value of that property. It's just about the -- again, the
22 history.

23 And I'll tie that in later in a quantifiable,
24 ascertainable -- I believe it plays into the ascertainability
25 of my damages under the NJCFA. So that's the relevance, and

1 hopefully I can draw all that together without putting everyone
2 to sleep.

3 So this -- and this picture -- this sheet -- I think
4 it's one sheet -- is it one sheet in your --

5 THE COURT: Yes, it is.

6 MR. REED: Okay.

7 THE COURT: We're referring to Exhibit 35?

8 MR. REED: Yeah. And you'll see some of the same kind
9 of treatments, ceiling treatments, molding treatments,
10 beadboard ceilings, archways, columns, and finishes. These are
11 the same kind of -- I bring this up for the proposition, too,
12 that these are the same kind of pictures -- or these
13 photographs are ones that I shared with -- or similar -- to the
14 appraiser, when we discussed the treatments, the finishing, so
15 when he did the subject-to, he knew what we were -- I wasn't
16 just going to throw wall-to-wall carpet in there and some
17 paint. This is the kind of flooring and molding treatments,
18 finishes.

19 And Your Honor, if you -- I'd like to -- when you look
20 at this particular picture or this page, if you look to the
21 upper right photograph --

22 THE COURT: Yes.

23 MR. REED: -- if you want to go back, you're welcome
24 to go back and look.

25 THE COURT: No. It looks similar to the Old Dell

1 Trace.

2 MR. REED: Yeah, it's all the same furnishings.

3 So even in front of that -- in the center picture on
4 the bottom, there's a little sitting -- a settee on the right-
5 hand side that's in front of the fireplace in my master bedroom
6 photo of Old Dell Trace.

7 So I move to put this into evidence as to the -- you
8 know, again, supporting the historical business practice.

9 THE COURT: Did you take the photographs in Exhibit
10 35?

11 MR. REED: I'm sorry?

12 THE COURT: Did you take the photographs in Exhibit
13 35?

14 MR. REED: Yes.

15 THE COURT: Ms. Hager?

16 MS. HAGER: No objection.

17 THE COURT: All right. Exhibit 35 is in evidence.

18 (Photos of Matlack property were hereby received into evidence
19 as Claimant's Exhibit 35, as of this date.)

20 THE COURT: We're going to break for lunch now. When
21 we resume at 2 o'clock, we'll resume with the testimony of --
22 what is his name again?

23 MR. REED: Robert Maines.

24 THE COURT: Mr. Maines' testimony. And when he
25 concludes his testimony, Mr. Reed will resume the witness

1 stand.

2 All right. We're in recess.

3 (Recess from 12:30 p.m. until 2:01 p.m.)

4 THE COURT: All right. Court's back in session.

5 We're here in Residential Capital, number 12-12020.

6 All right. Mr. Reed, call your next witness. We're
7 taking a witness out of order. Mr. Reed?

8 MR. REED: Yeah, I call Mr. Maines.

9 THE COURT: All right, Mr. Maines, come on up. If you
10 could come up to the witness box and you'll be sworn. Okay?

11 (Witness sworn)

12 THE COURT: All right, please have a seat, Mr. Maines.
13 If you would state your name for the record, please?

14 THE WITNESS: Robert Maines.

15 THE COURT: Thank you. All right, you're going to
16 offer his written declaration, Mr. Reed?

17 MR. REED: Yes, Your Honor. The copy I have in my
18 file -- in my book, is in --

19 THE COURT: Is this the declaration that appears as
20 Exhibit 1 to the Maines deposition?

21 MR. REED: Correct.

22 THE COURT: Which is Exhibit --

23 MR. REED: 25.

24 THE COURT: -- 25. And the two-page declaration
25 appears as the last two pages of the exhibit. Correct?

1 MR. REED: Yes, Your Honor.

2 THE COURT: All right. And are you offering the
3 Maines declaration that appears as Exhibit 1 to the deposition?

4 MR. REED: Yes, Your Honor.

5 THE COURT: Any objections?

6 MS. HAGER: No, Your Honor.

7 THE COURT: All right. The declaration of Robert
8 Maines is in evidence.

9 (Declaration of Robert Maines, which is Exhibit 1 to the Maines
10 deposition, was hereby received into evidence as a Claimant's
11 exhibit, as of this date.)

12 THE COURT: Ms. Hager, cross-examination.

13 CROSS-EXAMINATION

14 BY MS. HAGER:

15 Q. Good afternoon, Mr. Maines. I'm Barbara Hager. We met a
16 month or so ago when I took your deposition.

17 Mr. Maines --

18 THE COURT: You have to keep your voice up. Just pull
19 the microphone a bit closer to you. Thank you very much.

20 Would you like any water?

21 THE WITNESS: I'm good, thank you.

22 THE COURT: Okay.

23 Q. Mr. Maines, you were in the business of home building for
24 about thirty years. Is that right?

25 A. Yes.

1 Q. And in fact, you built the subdivision in which Mr. Reed
2 currently resides, correct?

3 A. That is correct.

4 Q. And you live there as well. Is that right?

5 A. Yeah, I do.

6 Q. And you know Mr. Reed personally, correct?

7 A. Yes, I do.

8 Q. And you're friends with Mr. Reed, right?

9 A. Yes.

10 Q. And you've known him for a number of years, ever since you
11 were working with him --

12 A. Yes.

13 Q. -- for his purchase of the house in your subdivision,
14 correct?

15 A. Correct.

16 Q. In fact, you both live on Matlack Avenue, right?

17 A. Drive, yes.

18 Q. Drive, excuse me. So when was it that you had the
19 inclination or desire to enter into a business relationship
20 with Mr. Reed?

21 A. I've done them in the past. I've joint ventured with
22 different people, builders and -- and when the opportunity
23 presented itself. So this was, I think, after things had
24 slowed up a little, so it would probably be -- things started
25 slowing up in '07 -- probably '08/'09, something like that, we

1 might have been talking. I've talked to him throughout
2 everything. So I'm not exactly sure of -- you know, other than
3 he presented, you know, a joint venture.

4 Q. Okay, so I'm just going to ask that again, because I
5 wasn't sure of your answer.

6 A. Okay.

7 Q. When was it that you had the inclination or desire to
8 enter into a business relationship with Mr. Reed?

9 A. You know, it's not solid in my mind. I would -- my best
10 guess is '08/'09, you know, that type of thing.

11 Q. Am I right that whatever discussions you had with him
12 about this business relationship took place at a time that your
13 construction business was winding down as a result of the
14 recession?

15 A. It was slowing up, yes, definitely.

16 Q. These discussions also took place at a time when you were
17 finishing construction on your residence at 800 Matlack,
18 correct?

19 A. That sounds right, yep.

20 Q. Okay. And so to your recollection, when did you finish
21 construction on 800 Matlack?

22 A. 2008 -- I think it's 2008. It's not sooner than that. It
23 might be a little later.

24 Q. Do you remember the time of year in 2008?

25 A. I think it was fall.

1 Q. You testified a moment ago that the market had slowed down
2 in '07/'08. Is that right?

3 A. Yes.

4 Q. Do you remember your testimony in your deposition where
5 you testified that, in fact, the market was dead by 2009?

6 A. Yeah, I probably used that term.

7 Q. So somewhere in '08/'09 time frame, Mr. Reed asked you for
8 money for the purpose of finishing construction or renovations
9 on a property in Richmond, Virginia. Is that right?

10 A. Yes.

11 Q. And how much did he ask for?

12 A. I don't know. Off the top of my head I would --

13 THE COURT: I'm sorry, I didn't hear that.

14 A. I'm -- I'm guessing around 300,000.

15 Q. But you don't know?

16 A. I don't. I really don't.

17 Q. And you don't have any documentation --

18 A. No.

19 Q. -- to support this? No, okay.

20 A. No.

21 Q. At the time of these discussions, were you aware of how
22 much Mr. Reed paid for the property at Old Dell Trace in
23 Richmond, Virginia?

24 A. He told me. I want to -- I'm just guessing, but I think
25 it was around 8- or 900.

1 Q. So I don't want --

2 A. 7- to 9-. I don't -- if he told -- I'm sure he told me.
3 I just don't remember.

4 Q. Okay. And just for clarification, I don't want you to
5 guess; you either know or you don't.

6 A. Yeah.

7 Q. Okay. So you think, though, at the time, he would have
8 told you?

9 A. Pretty --- I'm pretty sure of that. Yeah, I'm guessing.
10 So I shouldn't guess. But that would have been part of: I
11 have this much into it, I need this much to finish it, and then
12 we split whatever.

13 Q. At the time, were you aware of the amount of liens that
14 were existing on the Old Dell Trace property?

15 A. I guess I'd have to say now, he probably told me, but I
16 don't remember. I don't -- I don't know, I guess.

17 Q. And at the time, were you aware of how much work was
18 needed to finish the renovations on the Old Dell Trace
19 property?

20 A. I remember it needed a kitchen. The kitchen was all torn
21 out. I remember there was -- there was a lot of work to be
22 done; trim to be done, et cetera. So that's the best that I
23 can remember.

24 Q. The kitchen and trim work?

25 A. I think so. Because he -- yeah, I think there was a

1 substantial amount to do.

2 THE COURT: Did you go down to visit the property?

3 THE WITNESS: I did not. No. I saw pictures. That
4 was the extent of it.

5 Q. At the time, were you aware of the cost of the remaining
6 work?

7 A. His estimate, maybe, but so -- I don't know how -- that's
8 the best -- I don't -- to the best of my knowledge. I seem to
9 remember 300,000 was the number, and that he needed to finish
10 it.

11 Q. So your testimony is that 300,000 dollars was needed to
12 finish the kitchen and the trim work?

13 A. Well, there was more -- I think there was more stuff. You
14 know, there's probably siding. I think he put an addition on
15 and et cetera, et cetera. But you know, there was -- it didn't
16 seem outrageous for what had to be done at the time.

17 Q. Well, how far along was the construction at the point that
18 you and he were discussing whether or not you were going to
19 enter into a joint venture?

20 A. Well, as like I said that -- I don't know how -- I don't
21 know what he put into it. I know he was down there
22 deconstructing so that he could start the improvements. So --

23 THE COURT: What do you mean "deconstructing"?

24 THE WITNESS: Taking the kitchen out, taking the old
25 trim off, doing whatever -- whatever else was there, you know.

1 That's -- I -- again, I think -- I think he made it larger. I
2 think he put an addition on it, too.

3 THE COURT: Do you know what the status of the
4 addition was at the time?

5 THE WITNESS: I think it was sealed in, but -- like
6 the outside was waterproofed, but the inside was maybe in bare
7 studs or sheetrock, something like that.

8 THE COURT: Go ahead, Ms. Hager.

9 Q. And at the time of your discussions with Mr. Reed, was he
10 still living in your neighborhood or was he living --

11 A. Yes.

12 Q. -- in Virginia?

13 A. No. I think he was in Moorestown, in the neighborhood.

14 Q. You mentioned that, at the time of your discussions, the
15 kitchen had been -- I don't want to put words in your mouth,
16 but the kitchen had been demoed; is that right?

17 A. Yeah. I -- I -- I think it was removed and -- you know,
18 off the top of my head, as I recall, it was big -- it could
19 have been a 70 -- a 70,000-dollar kitchen, easy, from -- from
20 what I -- from what memory -- how memory serves me.

21 Q. And if I told you that he demoed the kitchen after
22 November of 2008, would that refresh your recollection as to
23 when you had these conversations with Mr. Reed?

24 A. November 2008 -- not -- I don't know -- not -- I couldn't
25 say yes to that.

1 Q. It wouldn't refresh your recollection?

2 A. Well, I -- Lord. I think I saw photographs -- I'm -- I'm
3 confident, but I wouldn't bet my life on it, that I saw the
4 kitchen removed. I think the kitchen was gone.

5 Q. I'm not saying you didn't see it. What I'm saying is if I
6 told you that he demolished the kitchen -- tore it all out --

7 A. Right.

8 Q. -- in November of 2008 --

9 A. Um-hum.

10 Q. -- does that refresh your recollection as to the timing of
11 your conversations with Mr. Reed?

12 A. I guess it would. I -- I --

13 Q. Well, I mean, it either does or it doesn't.

14 A. Well, if I saw the photograph -- if you're telling me the
15 -- the kitchen was done -- it was gone in -- at the end of
16 November '08? Is that what you said? Is that the --

17 Q. Correct.

18 A. -- date you're using? Then -- then I guess that's the
19 timeline. I don't -- my -- I'm not good with those dates at
20 all, but if you say the kitchen was gone then, then that would
21 be the timeline.

22 Q. And I'm not trying to put any words in your mouth. I'm
23 just trying to establish timing.

24 A. Yeah, and I -- and I apologize, but I don't really know
25 the exact dates. I -- I -- I'm not in a -- it wasn't like I --

1 I filed those in my mind well.

2 Q. So your experience as a builder is limited to your area in
3 New Jersey?

4 A. Yes.

5 Q. Is that right? And you're not familiar with real estate
6 in Virginia, correct?

7 A. I am not.

8 Q. You're not familiar with Richmond, Virginia --

9 A. No.

10 Q. -- in particular?

11 A. No.

12 Q. And you didn't research real estate in Richmond, Virginia,
13 correct?

14 A. I did not.

15 Q. So there was actually no deal with Mr. Reed at the time of
16 these discussions? They were just some generic talks?

17 A. Yes.

18 Q. Is that right?

19 A. That's correct.

20 Q. And would you lend money to someone or enter into a joint
21 venture with someone who was unable to pay their bills?

22 A. No.

23 Q. And would you have lent money or entered into a joint
24 venture, knowing that Mr. and Mrs. Reed had not paid their
25 mortgage payments on the Matlack property since January of

1 2008?

2 A. That would have been a big negative, sure. Yeah.

3 Q. But would you have entered into a joint venture with --

4 A. If I had --

5 Q. -- Mr. Reed?

6 A. -- known that, I guess --

7 Q. Hold on. Let me finish my question.

8 A. All right.

9 Q. Would you have entered into a joint venture with Mr. Reed,
10 as we've discussed, knowing that he and his wife had not made
11 any mortgage payments on their property -- on Matlack -- since
12 January of 2008?

13 A. I would say no.

14 MR. REED: I object to hypothetical.

15 THE COURT: Overruled. The Court has already
16 expressly found, in the first trial, that the Reeds made their
17 last monthly payment on the loan on January 4, 2008; had not
18 paid property taxes since the third quarter of 2006; and that,
19 in October of 2007, Moorestown Township informed GMAC that the
20 property was going to be sold in a tax sale. Unpaid property
21 taxes total \$1,892.44 for 2006 and \$32,683.61 for 2007 through
22 October 18, 2007. There's nothing hypothetical about Ms.
23 Hager's question.

24 Q. So Mr. Maines, despite the decline in the real estate
25 market, you consider -- is it your testimony that you

1 considered a joint venture with Mr. Reed whereby you would lend
2 him 300,000 dollars to finish work on a house in Virginia, not
3 knowing the amount of liens on the property, the amount of work
4 that had been done, the amount of work that needed to be done,
5 the cost of the work to be done, or how much Mr. Reed put into
6 the improvements, or whether there was a buyer's market in
7 Virginia?

8 A. Long question. I guess there's a part of me that thought
9 that -- sometimes buying opportunities present themselves when
10 the market is declining or off, so I would consider that. I
11 didn't -- I -- I didn't get far enough to do my due diligence
12 to find out how many -- you know, what liens there were or --
13 or what have you.

14 Q. Entering into an arrangement, such as the one we're
15 discussing, though, you would intend to recover your
16 investment, correct?

17 A. Yes.

18 Q. And you would intend to recover some sort of a profit,
19 correct?

20 A. That would be the plan, yes.

21 Q. Okay. But you hadn't gotten to the stage where you knew
22 what that would be; is that right?

23 A. Yeah, I -- yes, exactly.

24 Q. And you're not aware of whether Mr. Reed was past due on
25 his mortgage on the Old Dell Trace property, were you?

1 A. No.

2 Q. You don't know whether he was in foreclosure on the Old
3 Dell Trace property, correct?

4 A. No.

5 Q. And you don't know whether Mr. Reed was past due on the
6 mortgage on the Matlack property, correct?

7 A. Correct.

8 MS. HAGER: Okay. Thank you. No further questions.

9 THE COURT: Mr. Reed?

10 REDIRECT EXAMINATION

11 BY MR. REED:

12 Q. Mr. Maines, you know that I -- at the time of our
13 discussions to go into a joint venture, would you say that, at
14 that time, you felt that you were going to do this deal with
15 me, but for a certain -- let me rephrase this.

16 Is it fair to say that until you learned that I was
17 actually in foreclosure, your mindset -- your inclination was
18 to work with me on and to complete the project in Virginia?

19 MS. HAGER: Objection. Leading.

20 THE COURT: Sustained. You have to answer -- you have
21 to ask open questions. You can't ask leading questions.

22 Let me ask you this, Mr. Maines: is it your practice
23 to do due diligence before you make a 300,000-dollar
24 investment?

25 THE WITNESS: Absolutely, yeah.

1 THE COURT: And what would your typical due diligence
2 consist of?

3 THE WITNESS: A -- a review of, you know, basically,
4 some of the things she -- she suggested, like talk to the --
5 find out what the local market was doing -- and -- and from
6 Frank -- this isn't -- this is from Frank and his realtor, I
7 knew what things were selling for, but I'd confirm that, right?
8 The -- things were -- what he suggested it would sell for was
9 in the range of what one could target.

10 THE COURT: Would you do due diligence about what
11 existing mortgages or liens were on --

12 THE WITNESS: Yes.

13 THE COURT: -- the property?

14 THE WITNESS: I would -- I would get an attorney to
15 draw up a contract and -- and -- and -- and help me, you know.

16 THE COURT: And would you look to see whether there
17 were mortgage arrears on the property that he was asking you to
18 invest in?

19 THE WITNESS: Absolutely, yeah. I'd research them.

20 THE COURT: Go ahead, Mr. Reed.

21 And you didn't do any of that?

22 THE WITNESS: I did not. I didn't -- I did not.

23 BY MR. REED:

24 Q. Was me being -- was the fact that I was in foreclosure a
25 factor in your decision not to go forward with our proposed

1 business transaction?

2 MS. HAGER: Objection. Leading.

3 THE COURT: I'm going to overrule it.

4 Go ahead, Mr. Maines. You can answer it.

5 A. Yes. I -- I guess what -- and I don't know the timeline
6 of what -- when I found out, but yes, absolutely.

7 THE COURT: How did you find out that a foreclosure
8 action had been filed against Mr. Reed?

9 THE WITNESS: I -- you know, honestly, I don't
10 remember. I know there -- there's websites that -- there's --
11 there was a lot of gossip in the neighborhood.

12 THE COURT: Yeah.

13 THE WITNESS: You know, people would -- I knew things
14 were going wrong, right? So I might have heard it from a
15 neighbor or it was on a website or something like that, that --
16 that posts foreclosures. And I -- I never personally looked it
17 up.

18 THE COURT: Okay. Did you know that Mr. Reed hadn't
19 made any mortgage payments since January 2008 on the Matlack
20 property?

21 THE WITNESS: 2- -- no, I wouldn't have known that.

22 THE COURT: Did you know that he hadn't paid any
23 property taxes since 2006 on the Matlack property?

24 THE WITNESS: I did not. No, I don't think I knew --
25 I -- I don't see -- no.

1 THE COURT: Go ahead, Mr. Reed.

2 Q. How did learning that I was in foreclosure affect your
3 thoughts in relation to our contemplated deal?

4 A. Oh, it stopped them pretty abruptly, right? I -- I mean,
5 that -- that was -- that -- that's a wild card or a variable
6 that I wasn't -- you know, it's -- complicated it too much. It
7 complicated the situation too much.

8 Q. Do you recall me offering to -- offering you to have a
9 lien position on the property for your contribution with --

10 MS. HAGER: Objection. Leading.

11 THE COURT: Sustained.

12 MR. REED: How do I do this?

13 THE COURT: Did you discuss with Mr. Reed obtaining a
14 security interest in the Old Dell Trace property?

15 THE WITNESS: I would say yes. I -- I'm very
16 conservative -- I -- on a way to try to get -- if I'm
17 investing, I like -- when -- as a builder, I would hold onto
18 the property until settlement, for example, so I'm -- I'm sure.

19 MR. REED: Yeah, I'm --

20 THE COURT: What's your best recollection --

21 THE WITNESS: Okay.

22 THE COURT: Did you discuss with Mr. Reed obtaining a
23 security interest or a lien on the Old Dell Trace property?

24 THE WITNESS: My best memory would be yes.

25 THE COURT: Okay.

1 Ask your next question, Mr. Reed.

2 Q. Can you describe, in your words, why you wanted to --
3 about me, that made you want to contemplate doing business with
4 me?

5 A. I sold Frank a -- you know, when I sold Frank my house --
6 or the house I was building on spec, he -- Frank had come to
7 things from a different angle than, say, I would. And I had a
8 certain formula for building, and Frank had another way of
9 coming at the project -- or a project. So he had a way of
10 doing things that added value, like, for example, he added a
11 lot of value to the house that -- that I sold him.

12 THE COURT: The Matlack property?

13 THE WITNESS: The Matlack property.

14 THE COURT: Okay.

15 A. And, you know, and he just -- just, you know, I witnessed
16 that he got a high offer on -- on the house at one point. And
17 it's like, oh my gosh. It's -- you know, it's pretty amazing,
18 you know, for what he did. He also has a -- has a way -- we
19 weren't particularly -- the cheap -- we weren't the cheapest
20 builders around, right? And -- but he had a way of doing a
21 very nice product for -- for less. And that appealed to me
22 because we -- we -- it wasn't something our company was very
23 good at. You know, we did a nice product, but it was -- it
24 cost a lot.

25 THE WITNESS: When you sold Mr. Reed the Matlack home,

1 had construction been completed?

2 THE WITNESS: Yes. Yes. And then he added, say, a
3 third floor. He added different trims and so forth, and I --
4 trims on the outside, and I'm pretty sure, trims on the inside,
5 and -- and --

6 THE COURT: Did you do that work or did he --

7 THE WITNESS: Oh, no.

8 THE COURT: -- do it himself?

9 THE WITNESS: No, that was Frank. That was after the
10 sale.

11 THE COURT: All right. Go ahead, Mr. Reed.

12 Q. How much in increase of value would you say I brought to
13 the Matlack house that you were impressed with? How --

14 MS. HAGER: Objection. It exceeds --

15 THE COURT: Sustained.

16 MR. REED: Your Honor, I don't know if it's the
17 foundation of how --

18 THE COURT: Mr. Reed --

19 MR. REED: -- how --

20 THE COURT: -- you asked a question. There was an
21 objection. I ruled. Ask your next question.

22 (Pause)

23 Q. Do you remember when I had -- or let me rephrase this. Do
24 you recall that I had several -- you said I had a high offer on
25 the house. Do you recall that I had several offers on the

1 house that exceeded the sale price that you made to me?

2 MS. HAGER: Objection.

3 THE COURT: Sustained.

4 MR. REED: Oh, God. How do I ask this?

5 Q. You said I had a -- you recall me having a high offer on
6 the house. Do you recall how much?

7 MS. HAGER: Objection.

8 THE COURT: Sustained.

9 MR. REED: What am I doing wrong?

10 THE COURT: Mr. Reed, whatever you told him is called
11 hearsay.

12 Did you negotiate any of the prospective sales on the
13 property yourself?

14 THE WITNESS: I did not.

15 THE COURT: Whatever information you have, you got
16 from Mr. Reed?

17 THE WITNESS: Yes.

18 THE COURT: Okay. Objection sustained.

19 THE WITNESS: Makes sense.

20 Q. Is there any way you got that information from our common
21 realtor?

22 A. It's possible.

23 MS. HAGER: Objection. It exceeds the scope of cross.

24 THE COURT: Sustained.

25 MR. REED: It exceeds the scope of cross.

1 THE COURT: Whether he got it from you or a realtor,
2 it's still hearsay, Mr. Reed.

3 MR. REED: Okay.

4 (Pause)

5 Q. Let's see if I can do this. You testified that the market
6 was slowing up after 2007, and you contemplated doing this
7 partnership with me, and I think you testified that it was
8 after 2007. Why were you motivated to entertain that
9 partnership?

10 MS. HAGER: Objection. Leading.

11 THE COURT: Overruled.

12 A. Well, I -- I also had a house for sale in that
13 neighborhood -- somewhere in that neighbor -- somewhere around
14 the same time. I don't remember.

15 THE COURT: Was it your house you built on spec?

16 THE WITNESS: Yes. Well, and I moved into, myself.
17 And then -- and so I was -- so that's why we were talking. To
18 be --

19 THE COURT: All right. How many houses did you build?
20 This was a subdivision?

21 THE WITNESS: Subdivision.

22 THE COURT: How many houses did you build?

23 THE WITNESS: I want to say they were, like, forty-
24 some -- forty-two lots in there and maybe -- some of them, like
25 I said -- mentioned, we did joint ventures, so I didn't -- I

1 supplied the capital and the ground. And then so I would get
2 -- some of them, we sold out when we were cash flow -- we sold
3 to independent people for cash flow. And so I -- I would think
4 at least thirty-some -- mid-thirties.

5 THE COURT: Okay.

6 THE WITNESS: Something like that.

7 THE COURT: Go ahead, Mr. Reed.

8 THE WITNESS: And so -- so I don't know if -- stop me
9 if this is hearsay, but -- but this -- the -- so we were
10 talking about, you know, okay, who -- we're both getting ready
11 to sell, so we both had the same realtor.

12 THE COURT: When you say both getting ready to sell --

13 THE WITNESS: Well, he was on the market; I was
14 getting ready.

15 THE COURT: His Matlack house was on the property; you
16 were getting ready to sell your Matlack house?

17 THE WITNESS: That's right. That's how I remember it,
18 yes. And I was -- and -- I -- if -- just strike this if it --
19 if it's wrong, but I saw that him -- his house was -- model was
20 something like a million-and-a-half, something like that. And
21 we had a mutual realtor, and he -- you know, he got offers for
22 over 200. Now, I -- I don't remember -- two million, excuse
23 me.

24 THE COURT: Right. You can't tell me about the offers
25 he got because that's hearsay.

1 THE WITNESS: Yeah, because that's hearsay. Strike
2 that, but the -- but the -- that's what peaked my interest.
3 I'm trying to explain why it peaked my interest.

4 THE COURT: I'll just say that -- because this is the
5 second trial involving Mr. Reed -- in the first trial, there
6 was evidence about the various offers he got.

7 THE WITNESS: Okay.

8 THE COURT: So --

9 THE WITNESS: Okay.

10 THE COURT: It's not a mystery.

11 THE WITNESS: Okay.

12 THE COURT: I mean, there's a record that shows a
13 series of prospective purchasers and why they didn't close and
14 that sort of testimony.

15 THE WITNESS: Okay, which -- but the price astounded
16 me because we could never get it, you know. So I -- I
17 attributed that to his improvements.

18 THE COURT: Okay.

19 MS. HAGER: I want to -- I'm not even sure what
20 question he's responding to, but --

21 THE COURT: Well --

22 MS. HAGER: -- I want to move to strike.

23 THE COURT: -- Mr. Reed can ask his next question.

24 MS. HAGER: I want to move to strike that last --

25 THE COURT: Overruled.

1 MS. HAGER: -- exchange.

2 THE COURT: Mr. Reed can ask his next question.

3 Ms. Hager, the first opinion recounts, at great
4 length, each of the offers Mr. Reed had and what were the
5 circumstances that led to the sales not closing. So there's no
6 mystery about any of that, Ms. Hager.

7 Ask your next question.

8 MS. HAGER: I certainly --

9 THE COURT: Ask your --

10 MS. HAGER: I certainly under --

11 THE COURT: -- next question, Mr. Reed.

12 BY MR. REED:

13 Q. What was your impression of the Virginia market, where the
14 house was, at that time?

15 MS. HAGER: Objection.

16 THE COURT: Sustained.

17 He didn't even go down and visit it, Mr. Reed. He --
18 sustained.

19 Do you have any more questions for the witness, Mr.
20 Reed?

21 MR. REED: I'm trying to think, Your Honor.

22 No, Your Honor.

23 THE COURT: All right. Any redirect -- recross?

24 MS. HAGER: Yes.

25 THE COURT: Go ahead, Ms. Hager.

1 RECROSS-EXAMINATION

2 BY MS. HAGER:

3 Q. Mr. Maines, besides the foreclosure on Matlack, you didn't
4 enter into a joint venture because of the recession as well,
5 correct?

6 A. That's a factor, yes.

7 Q. And if you had learned about the default on the Matlack
8 property, you would not have entered into the joint venture,
9 correct?

10 A. I pres -- I would say yes.

11 Q. And that's information that Mr. Reed withheld from you,
12 correct?

13 A. I don't -- I don't -- I -- to be completely candid, I
14 don't know. It was possible that if there's a default and I'm
15 the money that brings it out of default, maybe. I don't know.
16 I don't know enough about that. I didn't get far enough into
17 it.

18 MS. HAGER: Okay. Thank you.

19 THE COURT: All right. Mr. Reed, any further
20 questions, limited to the subject that Ms. Hager just asked
21 about?

22 MR. REED: No, Your Honor.

23 THE COURT: All right. You're excused. Thank you
24 very much, Mr. Maines.

25 THE WITNESS: Thank you.

1 THE COURT: I appreciate your coming to testify.

2 All right. We'll take a ten-minute recess, and when
3 we're ready to resume --

4 THE WITNESS: Me?

5 No, not -- you're done. You're done.

6 THE WITNESS: Thank you.

7 THE COURT: You're welcome to stay or leave. That's
8 completely up to you, Mr. Maines.

9 THE WITNESS: I'll stay.

10 THE COURT: When we resume, you'll come back up to the
11 witness stand, so we'll give you a chance to get your papers
12 back up there in full.

13 MR. REED: Okay. Okay.

14 THE COURT: All right.

15 (Recess from 2:37 p.m. until 3:00 p.m.)

16 THE COURT: Court is back in session.

17 Mr. Reed, my courtroom deputy handed me a motion to
18 quash the subpoena that was just filed on behalf of Peter
19 McCaffrey, who you've apparently subpoenaed to testify on
20 September 30th. If you're going to file an opposition -- I'll
21 hand you a copy, since you don't have access to ECF. I'll hand
22 you a copy of the motion papers. It was just docketed as ECF
23 docket number 10145.

24 If you're going to respond to the motion, you need to
25 do so in writing by the beginning of court tomorrow, at 9 a.m.

1 You can read Mr. McCaffrey moved to quash on the basis of his
2 age -- 76 years of age -- and not in good health, describes
3 three hospitalizations.

4 I'm handing you a copy. But you need to -- if you're
5 going to oppose the motion, you need to respond in writing by
6 tomorrow morning at the start of court and serve a copy on Mr.
7 McCaffrey's attorney. I'll permit you to serve your
8 opposition, if you do oppose, by email.

9 Was Mr. McCaffrey deposed, Ms. Hager?

10 MS. HAGER: No.

11 THE COURT: Apparently, he did an appraisal at some
12 point.

13 MS. HAGER: Right. He --

14 THE COURT: Didn't he?

15 MS. HAGER: I believe he did an appraisal of the
16 Matlack property, so I'm not sure what the relevance of this
17 is, anyway. But no, I didn't depose him.

18 THE COURT: I'm not sure, either. I'm not commenting
19 on that, but because he's subpoenaed for September 30th, it's
20 my intention to act on the motion, probably, by the close of
21 business tomorrow. That's why I'm requiring a response to be
22 filed tomorrow.

23 Okay. Mr. Reed, you're back on the witness stand.
24 You're still under oath.

25 MR. REED: Your Honor, I thought you had said you were

1 going to, before I continue, you were going to address the
2 Clampitt and Watson.

3 THE COURT: Fine. Let's do that now. Have you -- Ms.
4 Hager, have you resolved those issues?

5 MS. HAGER: I think so.

6 THE COURT: Okay.

7 MS. HAGER: If we want to do Watson first?

8 THE COURT: Okay.

9 MS. HAGER: And if I may, I'll just -- well, I don't
10 know how you want to handle it, but I could just say what Mr.
11 Reed wants to offer --

12 THE COURT: Okay.

13 MS. HAGER: -- and what issues I have with it.

14 THE COURT: What's the tab?

15 MS. HAGER: Or did you want him to go first?

16 THE COURT: What's the tab? What's the exhibit number
17 for the Watson depo?

18 MS. HAGER: 13.

19 THE COURT: 13. Okay, hold on. Let me get it.

20 All right. Claimant's Exhibit 13 is the Watson
21 deposition transcript. Go ahead, Ms. Hager.

22 MS. HAGER: So with respect to Watson, Your Honor,
23 this is the one that we had filed a motion in limine on, and
24 Your Honor had ruled that any of her testimony could come in as
25 long, as it's limited to marketing on Old Dell Trace.

1 THE COURT: Right.

2 MS. HAGER: So the first section that Mr. Reed wanted
3 to offer is page 8, line 1, through page 18, line 23, and I
4 would object to that to the extent that, by and large, it
5 exceeds the scope of the permissible testimony, except for page
6 15, lines 9 through 17, which seem to address more of a
7 marketing element.

8 THE COURT: Let me read those pages over.

9 (Pause)

10 THE COURT: All right. The objection to page 8, line
11 1, through page 18, line 23 is overruled.

12 (Page 8, line 1, through page 18, line 23, of the Watson
13 deposition was hereby received into evidence as part of
14 Claimant's Exhibit 13, as of this date.)

15 THE COURT: What's next?

16 MS. HAGER: Page 19, line 25 through page 20, line 3,
17 I believe also exceeds scope, so I'm objecting to that.

18 THE COURT: All right.

19 MR. REED: Could you repeat that or --

20 MS. HAGER: Sure. Page 19, line 25, through page 20,
21 line 3.

22 MR. REED: Okay, so that whole cite.

23 MS. HAGER: Well, it's only four sentences.

24 MR. REED: Oh. I'm sorry.

25 MS. HAGER: Or four lines.

1 THE COURT: You're objecting to page 19, line 25 to
2 20, line 3?

3 MS. HAGER: Page 19, line 25, through page 20, line 3,
4 I am objecting, as it exceeds the scope of Your Honor's order.

5 THE COURT: Overruled.

6 (Page 19, line 25 through page 20, line 3, of the Watson
7 deposition was hereby received into evidence as part of
8 Claimant's Exhibit 13, as of this date.)

9 THE COURT: Next?

10 MS. HAGER: Page 20, line 11, through page 21, line
11 24. As an initial matter, I think Mr. Reed is missing the
12 question, which would actually start on line 9 on page 20.

13 THE COURT: Right.

14 MS. HAGER: So if it's okay with Mr. Reed, I think if
15 we go from page 20, line 9, through page 21, line 24, that that
16 would be acceptable.

17 THE COURT: All right. And he just dropped the
18 question, so there's no objection to that. It's page 20, line
19 19 --

20 MS. HAGER: Line 9, Your Honor.

21 THE COURT: I'm sorry. Line 9, through 21, line 24,
22 is -- okay -- in evidence.

23 (Page 20, line 9, through page 21, line 24, of the Watson
24 deposition was hereby received into evidence as part of
25 Claimant's Exhibit 13, as of this date.)

1 THE COURT: Go ahead, what's next?

2 MS. HAGER: Page 26 --

3 MR. REED: I mean, did you rule on that, Your Honor?

4 THE COURT: Yes, I said it comes in. She withdrew her
5 objection to it. We added the question. Your designation had
6 missed the question. It started --

7 MR. REED: Oh, that's what --

8 THE COURT: -- when they answered --

9 MR. REED: That was the grounds for the objection?

10 THE COURT: Well, it just --

11 MS. HAGER: It --

12 THE COURT: It's resolved.

13 MR. REED: I got it. Got it. Got it.

14 MS. HAGER: It wasn't really an objection.

15 THE COURT: It wasn't really. Go ahead. What --

16 MS. HAGER: Page 26, line 16 --

17 THE COURT: Um-hum.

18 MS. HAGER: -- through page 27, line 4.

19 THE COURT: All right. Let me read it.

20 MS. HAGER: I have no objection.

21 THE COURT: Oh, okay. Then it's in evidence.

22 (Page 26, line 16, through page 27, line 4, of the Watson
23 deposition was hereby received into evidence as part of
24 Claimant's Exhibit 13, as of this date.)

25 THE COURT: Okay, what's next?

1 MS. HAGER: Okay. Page 33, line 12, through page 33,
2 line 24, I have an objection, as it exceeds Your Honor's order
3 and is her opinion.

4 THE COURT: All right. Let me read it.

5 (Pause)

6 THE COURT: All right. Objection sustained.

7 MR. REED: Your Honor, could I argue that for a
8 minute?

9 THE COURT: No.

10 Go ahead, Ms. Hager.

11 MS. HAGER: Page 34, line 9, through page 35, line 9,
12 I have objection to that because it's essentially a
13 hypothetical given to her on the basis that she was an expert,
14 so her testimony is speculative.

15 MR. REED: 34 --

16 (pause)

17 THE COURT: The objection's overruled.

18 (Page 34, line 9, through page 35, line 9, of the Watson
19 deposition was hereby received into evidence as part of
20 Claimant's Exhibit 13, as of this date.)

21 THE COURT: I'm not sure what's gained from the
22 testimony, but the objection's overruled. Anything else?

23 MS. HAGER: Okay, thank you. And --

24 THE COURT: Do you have a designation of your own?

25 MS. HAGER: Sorry?

1 THE COURT: Is there any portion of the transcript
2 that you're designating?

3 MS. HAGER: No, Your Honor.

4 THE COURT: All right.

5 MS. HAGER: And Mr. Reed, I covered everything that
6 was on your list; is that right?

7 MR. REED: Page 34, line 9 --

8 THE COURT: To page 35, line 9, and I overruled the
9 objection. This is in evidence.

10 MR. REED: Yep. I think that's -- so that's in.

11 THE COURT: All right. So that leaves Clampitt.

12 MR. REED: Let's see --

13 THE COURT: Were you able to cover --

14 MS. HAGER: Yes.

15 THE COURT: -- Clampitt as well?

16 MS. HAGER: Which is -- yes, which is Mr. Reed's tab
17 15.

18 THE COURT: Right.

19 MR. REED: Okay.

20 MS. HAGER: Your Honor, page 5, line 22, through page
21 6, line 1, I don't have any objection to that, but just one
22 point of clarification.

23 THE COURT: Yes?

24 MS. HAGER: Mr. Reed had indicated to me page 5, line
25 23, so I'm just includ -- he had --

1 THE COURT: You're using --

2 MS. HAGER: -- missed the question.

3 THE COURT: You're using the question, correct?

4 MS. HAGER: Okay.

5 MR. REED: Again, that's -- hold on a second. I'm
6 behind you; slow getting this.

7 THE COURT: Page 5, line 22.

8 MR. REED: Yeah. Clampitt. That's -- looking --
9 there's 15. Okay.

10 THE COURT: Okay.

11 (Page 5, line 22, through page 6, line 1, of the Clampitt
12 deposition was hereby received into evidence as part of
13 Claimant's Exhibit 15, as of this date.)

14 THE COURT: Next?

15 MS. HAGER: Okay. On page 7, lines 18 through 20, I
16 don't have any objection to that. Mr. Reed had originally just
17 asked me for line 7 -- excuse me -- page 7, line 20, and I've
18 just included the question --

19 THE COURT: Question.

20 MS. HAGER: -- that goes with that.

21 THE COURT: Okay. That's in evidence.

22 (Page 7, lines 18 through 20, of the Clampitt deposition was
23 hereby received into evidence as part of Claimant's Exhibit 15,
24 as of this date.)

25 THE COURT: Go ahead.

1 MS. HAGER: Page 8, line 21, through page 9, line 2,
2 no objection.

3 THE COURT: All right. In evidence.
4 (Page 8, line 21, through page 9, line 2, of the Clampitt
5 deposition was hereby received into evidence as part of
6 Claimant's Exhibit 15, as of this date.)

7 MS. HAGER: Page 10, line 18, through page 10, line --
8 excuse me. Page 10, line 18, through page 11, line 14, no
9 objection.

10 THE COURT: All right. In evidence.
11 (Page 10, line 18, through page 11, line 14, of the Clampitt
12 deposition was hereby received into evidence as part of
13 Claimant's Exhibit 15, as of this date.)

14 THE COURT: Next.

15 MS. HAGER: Page 12, line 11, through page 13, line 3,
16 no objection.

17 THE COURT: All right. In evidence.
18 (Page 12, line 11, through page 13, line 3, of the Clampitt
19 deposition was hereby received into evidence as part of
20 Claimant's Exhibit 15, as of this date.)

21 MS. HAGER: Page 14, line 9, through page 15, line 15.
22 No objection, but one point that I think is worthy of
23 discussion: this was a deposition that I took of Ms. Clampitt,
24 and in this particular section of the deposition, I'm reading
25 through her declaration with her and asking her to, basically,

1 authenticate it, et cetera. I suppose I would like to see
2 clarification from the Court as to whether, if this comes in,
3 the declaration is also coming in.

4 THE COURT: No. The deposition's coming in, but 15,
5 line 15 -- you said 14 --

6 MS. HAGER: 14, 9 --

7 THE COURT: -- 14, line 9, to --

8 MR. REED: 13 --

9 THE COURT: -- 15. You've only gone through a
10 question, not an answer.

11 MS. HAGER: Right.

12 Mr. Reed, the answer on page 15, line 16 -- did you
13 want that to come in?

14 MR. REED: Okay. Where am I -- where am I at right
15 now?

16 MS. HAGER: Clampitt, page 15, line 16. You had
17 designated through line 15. Do you want line number 16 in?

18 THE COURT: You need the answer with the question.

19 MR. REED: I see that.

20 THE COURT: It's not exactly --

21 MR. REED: Yes.

22 THE COURT: -- an answer, but go ahead. All right.
23 It's in evidence.

24 (Page 14, line 9, through page 15, line 16, of the Clampitt
25 deposition was hereby received into evidence as part of

1 Claimant's Exhibit 15, as of this date.)

2 MS. HAGER: Okay.

3 THE COURT: Next?

4 MS. HAGER: Page 16, line 2, through page 16, line 5,
5 no objection.

6 THE COURT: All right. In evidence.
7 (Page 16, line 2, through page 16, line 5, of the Clampitt
8 deposition was hereby received into evidence as part of
9 Claimant's Exhibit 15, as of this date.)

10 MS. HAGER: Page 17, lines 9 through 11.

11 THE COURT: Yes?

12 MS. HAGER: No objection.

13 THE COURT: All right. In evidence.
14 (Page 17, lines 9 through 11, of the Clampitt deposition was
15 hereby received into evidence as part of Claimant's Exhibit 15,
16 as of this date.)

17 MS. HAGER: Page 17, lines 16 through 25, no
18 objection.

19 THE COURT: All right. In evidence.
20 (Page 17, lines 16 through 25, of the Clampitt deposition was
21 hereby received into evidence as part of Claimant's Exhibit 15,
22 as of this date.)

23 MS. HAGER: And on cross, page 21, lines 23 through
24 25.

25 THE COURT: 21 -- all right, hold on.

1 MS. HAGER: It's page 21 --

2 THE COURT: Yes, I passed it. I see.

3 MS. HAGER: Okay.

4 THE COURT: All right. In evidence.

5 (Page 21, lines 23 through 25, of the Clampitt deposition was
6 hereby received into evidence as part of Claimant's Exhibit 15,
7 as of this date.)

8 THE COURT: Next?

9 MS. HAGER: Page 29, lines 20 through 25.

10 THE COURT: Okay. In evidence.

11 (Page 29, lines 20 through 25, of the Clampitt deposition was
12 hereby received into evidence as part of Claimant's Exhibit 15,
13 as of this date.)

14 MS. HAGER: Page 30, lines 18 through 24.

15 MR. REED: Where?

16 THE COURT: All right. In evidence.

17 (Page 30, lines 18 through 24, of the Clampitt deposition was
18 hereby received into evidence as part of Claimant's Exhibit 15,
19 as of this date.)

20 MR. REED: Well, Your Honor?

21 THE COURT: Yes.

22 MR. REED: There's more here on Clampitt.

23 MS. HAGER: Okay. I told you I wouldn't turn any
24 pages.

25 MR. REED: Okay, okay.

1 MS. HAGER: So I didn't that.

2 Well, can I just finish --

3 THE COURT: Yes.

4 MS. HAGER: -- this part?

5 MR. REED: Now comes this.

6 THE COURT: Yes, yes, yes, yes.

7 MS. HAGER: And then I'll go back over that. So I

8 think I just said page 30, lines 18 through 24?

9 MR. REED: Yes, then I said there was more.

10 MS. HAGER: Okay. Page 39, lines 13 through 17.

11 THE COURT: All right. In evidence.

12 (Page 39, lines 13 through 17, of the Clampitt deposition was
13 hereby received into evidence as part of Claimant's Exhibit 15,
14 as of this date.)

15 MS. HAGER: Page 46, line 25, through page 47, line 2.

16 THE COURT: Okay. In evidence.

17 (Page 46, line 25, through page 47, line 2, of the Clampitt
18 deposition was hereby received into evidence as part of
19 Claimant's Exhibit 15, as of this date.)

20 MS. HAGER: And page 47, lines 16 through 18.

21 THE COURT: All right. In evidence.

22 (Page 47, lines 16 through 18, of the Clampitt deposition was
23 hereby received into evidence as part of Claimant's Exhibit 15,
24 as of this date.)

25 MS. HAGER: Okay. That's all I have. I'm happy to

1 take a look at that other page now.

2 THE COURT: All right. Why don't you come on up? Ms.
3 Hager, why don't you look at what Mr. Reed has there?

4 MR. REED: All right. I --

5 THE COURT: Well, she's going to come up. And show
6 her what you --

7 MR. REED: Yeah, I'm sorry about that. This was the
8 --

9 MS. HAGER: There's a lot on here, Your Honor. Shall
10 I look at this later? I can finish it while he's talking.

11 THE COURT: Okay. Can she take that list from you?

12 MR. REED: Sure.

13 THE COURT: And we'll come back and finish the
14 Clampitt designations, okay?

15 All right. I think when we finished your testimony --
16 or ended your testimony before lunch, you had just introduced
17 into evidence the photos of the property that are part of
18 Claimant's Exhibit 35. That was the last in my notes, Mr.
19 Reed.

20 MR. REED: Okay. Your Honor, the declaration for
21 Clampitt -- I thought that the deposition would -- validating
22 the declaration eliminates the hearsay rule.

23 THE COURT: It doesn't with respect to the
24 declaration. So if the witness appears in court, I admit the
25 declaration and then we have live in-court cross-examination;

1 where if the witness does not appear, the deposition is the
2 testimony. So you designated portions and Ms. Hager has
3 designated portions, but the declaration itself doesn't come
4 into evidence. But --

5 MR. REED: So it's one or the -- it's one or the
6 other; that's how that works?

7 THE COURT: Yes.

8 MR. REED: Yes. Okay, I see that. Okay.

9 THE COURT: Okay. So as I said, when we ended your
10 testimony just before lunch, you had just introduced into
11 evidence Claimant's Exhibit 35, the photographs of the Matlack
12 property. And that's when we broke for lunch.

13 MR. REED: Okay.

14 (Pause)

15 MR. REED: Okay. I think I was done with the Matlack
16 photos. I just want to make sure.

17 THE COURT: I think you had finished testifying about
18 the Matlack photos in Exhibit 35 when we broke for lunch.

19 MR. REED: Yeah, I think we did, right?

20 THE COURT: Yes, we did. Well, I thought you did, but
21 --

22 MR. REED: Yeah. We discussed it was the same
23 furnishings --

24 THE COURT: Right.

25 MR. REED: -- that I had.

1 THE COURT: What I understood your point to be, you
2 compared the furnishing shown in Exhibit 35 to the photographs
3 we looked at for Old Trace (sic).

4 MR. REED: Yeah, okay. All right. Okay, so I'd like
5 to visit the -- hold on, let's see if it has what we want.

6 (Pause)

7 MR. REED: Your Honor, I would like to draw attention
8 to tab 18. As you can see -- I believe it's 18 -- James Suhr
9 deposition.

10 THE COURT: That's not 18.

11 MR. REED: Is it 17?

12 THE COURT: It is 17.

13 MR. REED: Okay. There's a few things I'd like to
14 highlight, I think, in this deposition.

15 THE COURT: This is the time for your testimony.

16 MR. REED: Okay.

17 THE COURT: Not to argue -- when I say argue, not to
18 raise arguments about what the evidence showed from somebody
19 else's testimony.

20 MR. REED: Okay.

21 THE COURT: Okay. If you want to do that in the
22 closing argument, you can, but now is the time for you to give
23 your testimony.

24 MR. REED: Okay. So I guess I'd like to put on the
25 record a document, and we're going to discuss that, and it's

1 Exhibit 43.

2 (Pause)

3 Oh. Okay. If this is correct, it should be a
4 settlement statement -- a document for the purchase of 9717 Old
5 Dell Trace. This document -- if you'd go to page -- or item
6 number in the summary of borrower transactions --

7 Your Honor, can I switch chairs?

8 THE COURT: Well --

9 MR. REED: I just --

10 THE COURT: I don't know --

11 MR. REED: Can I have that one? It's that one.

12 THE COURT OFFICER: This one?

13 MR. REED: Can I have that chair?

14 THE COURT OFFICER: Sure.

15 MR. REED: This is just too much.

16 Thanks. That's wonderful. That's great.

17 THE COURT: Thank you very much.

18 MR. REED: Oh, that's so much better.

19 The purchase price, line 101, for the record, is 899.

20 There were settlement charges to that. There was a 10,000-
21 dollar earnest money deposit -- line 201. These items are
22 being introduced to show the debt obligations on the property
23 and sunk costs into the property, besides the construction
24 costs.

25 (Pause)

1 Let's see if I recall this correctly. Cash from loan, 100,000.
2 It's my recollection that this was really ten percent down on
3 the property, which was 890 -- or 89,000 on 205. Was that
4 eight -- it's almost eighty percent from the first mortgage and
5 ten percent from the second mortgage and ten percent down. Let
6 me see where that indicates this.

7 (Pause)

8 MR. REED: There are two loans that were used to
9 acquire the Matlack -- look at it this way, to acquire this
10 property. One was the primary first mortgage 719,200. That's
11 on line 202 of the first HUD (ph.).

12 THE COURT: Let me make sure I understand, Mr. Reed.
13 Did you obtain a first mortgage of 719,200 dollars to purchase
14 the property?

15 MR. REED: Yeah, my wife did. She obtained a first
16 and second mortgage.

17 THE COURT: And from whom?

18 MR. REED: I think it was Metrocities -- actually
19 became Taylor, Bean & Whitaker.

20 THE COURT: How much was the second mortgage? The
21 first mortgage was 719?

22 MR. REED: Yes.

23 THE COURT: And how much was the second?

24 MR. REED: The second mortgage is page 3 of this
25 exhibit, line 202.

1 THE COURT: 89,900?

2 MR. REED: Yes.

3 THE COURT: Were you at -- did you sign as an obligor
4 on the loan or just your wife?

5 MR. REED: I don't remember being a signer to the
6 note. I think I was a signer to the mortgage because I was on
7 the deed.

8 THE COURT: On both the first and second?

9 MR. REED: I have to be because I was co-owner of the
10 property.

11 THE COURT: I know. My question -- let me ask it more
12 clearly. Did you sign either note for the first or the second?

13 MR. REED: I can't remember.

14 THE COURT: All right. Go ahead with your testimony.

15 MR. REED: So that the purchase price was 899-, and
16 then there were settlement charges on top of that of 21,000, so
17 the total amount that was due from us is in line 120 of the
18 first page of this exhibit, 921-.

19 And the borrowed funds for the acquisition between the
20 two loans of 719,200 from the first and 89,157 from the second,
21 comes to a total of 808,357. So our contribution into the
22 property, sum cost in the property is -- from an acquisition
23 standpoint, I believe is an acquisition and a sum cost for
24 purchase: \$112,807.24. The total needed to complete the
25 transaction was \$921,164.24, less the two financing amounts of

1 719- and 89,157.

2 (Pause)

3 MR. REED: I think that's what this exhibit stood for
4 is how much that was, so I move to enter it into evidence.

5 THE COURT: You're offering Exhibit 43 in evidence.

6 Ms. Hager?

7 MS. HAGER: No objection.

8 THE COURT: All right, Exhibit 43 is in evidence.

9 (HUD purchase documentation was hereby received into evidence
10 as Claimant's Exhibit 43, as of this date.)

11 MR. REED: And again, Your Honor, those were funds
12 that we provided for the purchase of that amount.

13 THE COURT: Both the first and the second were at
14 Metrocities?

15 MR. REED: Yes.

16 THE COURT: And did you make the monthly payments for
17 a time?

18 MR. REED: Yes, Your Honor.

19 THE COURT: For how long? Let me ask it differently.
20 When did you stop making the mortgage payments on the Old Dell
21 Trace property?

22 MR. REED: Your Honor, I think -- I think my wife
23 skipped a couple payments in late '07, and this -- is that
24 right? No, that was all made throughout '07. Payments were
25 made into '08.

1 I think the payments, Your Honor, were -- were stopped
2 mid '08 when we were -- when we -- when we wound up in
3 foreclosure with GMAC. I believe that we were current all the
4 way through to that point. And then I brought it current in
5 a -- in the few payments -- the payments that were missed, we
6 bought it -- I brought it current in '08 when I learned that
7 it -- that it was on notice -- a late notice that came to the
8 house, so I brought it -- brought it current in '08, and
9 through I guess the -- I guess the beginning of '09, so we --
10 you know, we continued to make those payments.

11 THE COURT: I think you said -- well, Taylor Bean then
12 brought a foreclosure action, and you sued them?

13 MR. REED: Yes, in -- in -- let's see. Let me make
14 sure I get all this straight. I'm like Mr. Maines sometimes
15 too -- a little in common, I need to make sure we think about
16 this stuff.

17 We were fully current I want to say in January,
18 February, March, something like that in 09. This is when I
19 moved -- I moved from New Jersey in November 2010 -- 2008 we
20 went -- there had been a couple payments I think missed in '08,
21 then we had to -- you know, I made sure it was paid.

22 But a representative from Taylor, Bean & Whitaker --
23 was that -- I think I put it in two payments. It was like
24 15,000 dollars or 18,000 dollars or I can't remember the
25 number. And then the representative from Taylor -- about --

1 regarding this litigation, the representative from Taylor, Bean
2 & Whitaker said you know, we can -- you know, we can do a
3 modification. We've acquired your land. We can do a
4 modification on your loan. You know, no foreclosure will
5 happen in your property, if you -- if you bring the mortgage
6 current by X date. I can't remember what the date was. It was
7 in the beginning of 09, we will modify your mortgage and no
8 foreclosure action will take place until that's -- that's done,
9 and reinstate, you know -- we'd fully reinstate it.

10 So we -- we sent a certified check to them. Like I
11 said, all it was -- by that point, as we had our conversation,
12 18,000 or 20,000 dollars, so everything was current. And
13 Taylor, Bean & Whitaker, we sent -- we never got a -- a
14 package, like we expected.

15 So I contacted Taylor, Bean & Whitaker. I -- I -- the
16 number for the -- the, you know -- the representative. I
17 contacted them and left a voicemail, and another voicemail, and
18 I found a supervisor. Chris Muntz's (ph.) secretary picked up.
19 I left another voicemail. And we emailed and got no response.
20 I think -- I think -- I think I may have even employed
21 Venezuela (ph.) at that time to help me contact them.

22 And it turns out Taylor, Bean & Whitaker was -- had
23 filed a fraudulent package with the -- the TARP fund. I think
24 the essence of their fraud was they double booked, or they
25 claimed assets that they had sold actually, for hundreds of

1 millions of dollars. And the FBI raided them, and the next day
2 the executives fired all 4,000 employees. They just -- you
3 know, that's why no one was answering the phone calls.

4 So at this -- at this point, even though this was
5 going on -- I can't remember when I actually learned how that
6 was happening, we were diligently working on Old Dell. So when
7 I came back -- when I came down to Virginia --

8 THE COURT: You said you moved in November 2008?

9 MR. REED: Yes. So then -- then we -- as you saw in
10 the -- let's get the -- some of the -- let me get them fresh in
11 my mind. In 2008 -- by 2008, we acquire -- we acquired the
12 house, and by 2008 I got my permits all approved. We'd been
13 paying the mortgage all along, all taxes all along -- 2007,
14 2008 mostly. Filed for all permits, did all the -- paid the
15 demolition.

16 You know, Your Honor, I -- I paid for all this. This
17 is my testimony and I'm going to give you estimates of how much
18 I paid, but there's very little that wasn't actually paid for
19 in terms of the contract. I mean, all this lumber, all that
20 work, I mean, doubled the size of -- that was cash that I had
21 that I actually paid. I mean, you got Mr. Suhr, which you
22 know, and I think his testimony -- I paid these contractors
23 either by check or by cash that I had, depending on some of
24 them -- like, you know, what -- they didn't have bank accounts,
25 so they wanted -- they wanted cash.

1 So down there, now the inside of the house, I'm
2 working diligently every day, multiple contractors there
3 working to finish the house. In the beginning of -- of '08,
4 because Mr. Cooper didn't close on the house, I had some -- I
5 had trepidation about -- you know, even though I planned on
6 ripping out the kitchen, for example, it was one of the last
7 things that I did because Mr. Cooper had missed two
8 settlements.

9 There was equity in the house, a million-eight
10 contract. There was hundreds of thousands of dollars needed
11 that I could have used to complete the map -- you know, the 97
12 property. We tried to juggle everything. You know, the
13 foreclosure in New Jersey, trying to deal with that. I
14 couldn't just bring that current because I couldn't erase --
15 and it's a good time maybe I should say something about that.

16 One of the reasons, even though there was cash like I
17 had in terms of the foreclosure in New Jersey, as to why that
18 didn't just -- I didn't like -- in Virginia, when we were
19 behind, they sent me a notice. I just paid it. Some people
20 say why didn't that happen in New Jersey.

21 In Virginia, a foreclosure action is a nonjudicial
22 action. It doesn't show on your credit like that. It --
23 unless the -- unless the insure -- unless they -- until the
24 foreclosure happens. You understand? In other words, when
25 they sell it, then it becomes a public record that you -- that

1 you sold. There's not a lis pendens filed and stuff like that,
2 like there is in New Jersey, because the lis pendens is filed
3 as part of the litigation, and it's picked up by the services,
4 you know, differently.

5 So one of the -- one of the troubling things that
6 happened in New Jersey and how I -- how we didn't respond the
7 same with New Jersey is after talking to several attorneys, and
8 how -- and how this was unwinding for me, you couldn't -- you
9 can't -- you can't expunge foreclosure action that's been filed
10 as a matter of record -- public record in New Jersey as
11 litigation.

12 MS. HAGER: Objection. I move to strike this line as
13 irrelevant.

14 THE COURT: Overruled.

15 MR. REED: So we -- we -- I had no choice, in my
16 understanding, but to continue fighting about this. Like even
17 today, if I -- if I could have -- you know, if you had the
18 power to remove that from the docket -- I understand you can't,
19 like a criminal expungement. It would have been included in my
20 request for an equitable remedy for -- for -- for this -- for
21 Matlack in the original trial.

22 But I was pursuing that as part of the -- as part of
23 the litigation, for example, that Mr. Walters filed in -- in --
24 after the -- after -- I mean, I understood I had to get the
25 foreclosure dismissed to show that it was there. That was step

1 one. It had to be dismissed by the court showing it was their
2 wrongful act.

3 Then it -- I understood it to be that their wrongful
4 act we'd be able to have that eliminated from the record and
5 the pall that it -- the effects that it would have on me,
6 either in a credit report, which we're not suing about now
7 because of the lack of that evidence on the record. But in --
8 but general, with other people knowing about it, learning about
9 it, people I do business with, the banking recor -- you know,
10 people. It was a very big concern for me because up until 2007
11 and -- and even into 2008, our credit was -- was -- I can't --
12 I mean, I don't want to say it because I don't -- it was -- it
13 was good. That's how we got the loans that we got.

14 I mean, this is not like a sixty percent down, high-
15 interest-rate loan. These -- these loans to acquire to
16 Matlack, to acquire Old Dell, to buy and sell the lots, buying
17 and selling lots with financing. It's extremely difficult.
18 It's not like a regular consumer -- you know, to -- to buy a
19 house, you know, someone who has a regular job and does that
20 because --

21 MS. HAGER: Motion to strike the testimony as it
22 relates to his credit based on Your Honor's order on our motion
23 in limine.

24 MR. REED: I'm not seeking damages.

25 THE COURT: I'm going to overrule it, but just move

1 on, Mr. Reed. Okay?

2 MR. REED: Okay. So -- so --

3 THE COURT: Mr. Reed, did you have the cash to satisfy
4 the default on Matlack in May 2008, when the foreclosure action
5 was filed?

6 MR. REED: I don't know what we had liquid at that
7 moment.

8 THE COURT: All right, let's move on. Matlack's off
9 the table.

10 MR. REED: Oh, I'm not -- I'm not --

11 THE COURT: I understand, so but we're taking a lot of
12 time on this.

13 MR. REED: Okay, I'm sorry. I'm sorry. I'm sorry.
14 All right so that --

15 THE COURT: You just put in evidence of what you
16 paid --

17 MR. REED: And we were talking about -- you were
18 asking about --

19 THE COURT: -- for Dell Trace.

20 MR. REED: -- the litigation regarding -- regarding --

21 THE COURT: Yes, you sued Taylor Bean.

22 MR. REED: Yes. So the -- the grounds for --

23 THE COURT: And they ultimately succeeded in
24 foreclosing on the property, correct?

25 MR. REED: Because it's not a -- it's not a --

1 THE COURT: But they succeeded in foreclosing. You
2 filed an action that ultimately was dismissed. They completed
3 the foreclosure of the Old Dell Trace property, correct?

4 MR. REED: The action was after the foreclosure.

5 THE COURT: All right.

6 MR. REED: For damages.

7 THE COURT: All right, let's move on. Can you tell me
8 this -- how much was the amount of your default on the Old Dell
9 Trace first and second mortgages at the time that they
10 completed foreclosure?

11 MR. REED: Of the actual foreclose -- of the actual
12 taking?

13 THE COURT: Yes, they --

14 MR. REED: I think we have that as an exhibit if
15 you -- I think that's the demand letter in an exhibit. I think
16 it might be tab 40, Your Honor.

17 THE COURT: Pay off amount \$922,086.80?

18 MR. REED: If you go to the -- and that's -- that's
19 including the principal.

20 THE COURT: Okay.

21 MR. REED: So I think the -- the -- the back -- the
22 back -- the last page of that exhibit. But this is now -- and
23 you can look at this, it's in 2012, the end of 2012.

24 THE COURT: The payoff, but the amount of the -- am I
25 correct that the amount of the arrears on the Old Dell Trace

1 property loan was \$157,664.41?

2 MR. REED: That's what was in -- in November of -- of
3 2012. And --

4 THE COURT: When did they complete the foreclosure?

5 MR. REED: I believe in the beginning of 2013.

6 THE COURT: All right, but at least as of -- good
7 through November 30th, 2012, the amount of the arrears,
8 including late charges, other fees, corporate advances, legal
9 fees and costs was \$157,664.41. Is that correct?

10 MR. REED: Yes, that's what I believe is correct.

11 THE COURT: All right. Go ahead with your testimony.

12 (Pause)

13 MR. REED: Foreclosure amounts --

14 THE COURT: "In the New Jersey Superior Court Chancery
15 Division and determined that the foreclosure action should be
16 dismissed without prejudice on February 9th, 2009." Correct?

17 MR. REED: I don't know, Your Honor. I don't -- I
18 don't remember.

19 THE COURT: I'm reading from my prior opinion at 517
20 B.R. 462.

21 MR. REED: Okay.

22 THE COURT: At page 473. At the top of that page it
23 reads, "Chancery Division Court denied the GMACM's summary
24 judgment motion and granted the Reed summary judgment cross-
25 motion on February 9, 2009. The Chancery Division Court

1 determined that the foreclosure action should be dismissed
2 without prejudice because GMACM could not prove that it
3 delivered an NOI in accordance with" -- gives the statutory
4 section.

5 (Pause)

6 THE COURT: Go ahead with your testimony, Mr. Reed.

7 MR. REED: You Honor, I think if we look to -- just
8 for the record here, if you look to -- back to Exhibit 24 that
9 as admitted, these are county records from Henrico County, page
10 3 --

11 THE COURT: Which exhibit are you looking at?

12 MR. REED: 24.

13 (Pause)

14 MR. REED: The -- this is for Old Dell Trace, county
15 records for Old Dell Trace. And if it helps with the record,
16 there's a forced sale, if you look at the top table.

17 THE COURT: How far into this exhibit is it?

18 MR. REED: It -- it -- I'm sorry, page 3 -- page 3.
19 It says "Transfer and Assessments" up in the left-hand corner.

20 THE COURT: Yes.

21 MR. REED: If you look at that table --

22 THE COURT: There's two tables on the page.

23 MR. REED: The top table.

24 THE COURT: Yes.

25 MR. REED: You'll see --

1 THE COURT: I see "Forced sale".

2 MR. REED: Yeah, forced sale, if you look at that
3 line, it said I was -- I was the owner with my wife, and the
4 forced sale I think refers to the foreclosure, Your Honor. As
5 I said, I believe it was in the beginning of 2013. Here we
6 have a date 2/26.

7 THE COURT: February 26, 2013.

8 MR. REED: Yeah, for 935,743, which is similar in
9 number to that line.

10 (Pause)

11 THE COURT: When did you move back to Matlack?

12 MR. REED: I moved back to Matlack in -- we evicted
13 Cooper I think in late '09. And I moved back to Matlack
14 because that was finished in 2010. So Your Honor, I had two
15 houses -- I had five houses. I had plenty -- three were rented
16 with the Oxford house, some leases that were coming -- coming
17 due, the Matlack property, and Old Dell Trace.

18 So when we -- after we had Cooper evicted, I don't
19 want to get into all the sales history -- you know that from
20 the first trial. Then we -- we -- when it was clear I wasn't
21 going to have the funds available or couldn't get them in the
22 remainder of '09 and into 2010, that Cooper wasn't closing
23 because Cooper was going to close I think in the third quarter
24 of -- or the end of third quarter, beginning of the fourth
25 quarter of 2009. And I -- and I didn't have the funds the

1 complete Old Dell. I started considering how we were going to
2 have to move back to Matlack. So in -- in -- earlier in '09 --
3 in -- okay, back again.

4 THE COURT: I'm just trying to understand the
5 chronology, Mr. Reed. You testified earlier that you moved to
6 Old Dell Trace in November 2008.

7 MR. REED: Yes.

8 THE COURT: And I'm trying to understand how long you
9 lived there until you moved back to Matlack.

10 MR. REED: The hotel and -- and -- and Old Dell I
11 think was a year and a half and a few months.

12 THE COURT: So sometime in 2010 you moved back?

13 MR. REED: Yes.

14 THE COURT: And when you left Old Dell Trace, what was
15 the status of the construction on that home?

16 MR. REED: Old Dell, we -- we had bought it to -- I
17 can't give -- I can't give you a percentage. I can tell you
18 the interior renovations to the main house, except for the
19 kitchen cabinets -- so remember me showing you the pictures of
20 the flooring, the ceilings? Those pictures represent like
21 the -- you know, the end stages of when we were, you know, at
22 Old Dell.

23 So bathrooms -- kids' bathroom, we'd done some work
24 there. We -- the foyer you saw, the family room, the kitchen
25 was set. The addition -- it was like I said all -- not just

1 framed, but you saw the pictures of the master bedroom. We
2 were missing -- let me do it this way.

3 Start from the back of the house. The large sunroom,
4 the foundational concrete was in, but the final slab was not.
5 All the columns were tied into the foundation. That's why I
6 could -- it was structurally sound. The ceiling was not done
7 but it was all insulated, but it was open insulation. So we
8 were living in a -- you know, it was un -- it was uncompleted.
9 It was open. Loft -- a lot of people -- we'd crack jokes like
10 living like Lincoln, with one wall missing.

11 The -- the upstairs master sitting room, the flooring
12 was all missing. The master bath the flooring was all missing.
13 The addition hardwood flooring needed to be all finished, so it
14 was the wall -- you know, the wallboy (ph.). You can also look
15 to Mr. Surh's (ph.) deposition.

16 THE COURT: Let me ask a different question. From the
17 time you left Old Dell Trace sometime in 2010, you moved back
18 to New Jersey until foreclosure of Old Dell Trace was completed
19 in February 2013. Was there any further construction work that
20 was done on the Old Dell Trace property?

21 MR. REED: I think we did some plumbing work because
22 we had an issue with the -- where the lines were lying (ph.).
23 You know, there was -- we had a line pop.

24 THE COURT: Did anyone live in the Old Dell Trace
25 property from the time you moved back to New Jersey until

1 foreclosure was completed in February 2013?

2 MR. REED: No, we couldn't. I couldn't -- we couldn't
3 because I put my family in there.

4 THE COURT: I'm just asking a question. I don't
5 want -- I don't need explanation. I'm just trying to
6 understand whether anybody lived in there from the time you
7 moved back to New Jersey until it was foreclosed.

8 MR. REED: They -- they legally couldn't.

9 THE COURT: Okay.

10 MR. REED: Because of the CO.

11 THE COURT: You didn't have a CO. You were living
12 there.

13 MR. REED: Well, that's -- that -- that --

14 THE COURT: CO being a certificate of occupancy.

15 MR. REED: Yeah, a certificate of occupancy because I
16 was the -- unlike new construction, when you go for a permit
17 for an expansion, you don't have to move out of your house.
18 You can live --

19 THE COURT: Okay, all right. I understand so let's
20 move on. You've answered my question.

21 MR. REED: Okay, because you know, I couldn't put a
22 tenant in there.

23 THE COURT: Okay. You've answered my question. Just
24 let's keep trying to move it along.

25 MR. REED: Okay, now I lost my train of thought.

1 THE COURT: You put in evidence Exhibit 43, settlement
2 statement. You went through what you purchased, how much you
3 financed. There was then a discussion about Taylor Bean and
4 the possible loan modification, and how your calls went
5 unanswered. And then I asked you some questions about what the
6 amount of the arrears were. That's where you were in your
7 testimony.

8 MR. REED: Okay, so let me -- let me -- let me get
9 back now.

10 (Pause)

11 THE COURT: Are we finished with Old Dell Trace?

12 MR. REED: I -- I -- I think from the construction and
13 renovation stuff I think so. Let me look at my list one more
14 second.

15 (Pause)

16 MR. REED: 39 -- there's something here. Hold on a
17 second. 39 I have something related to 9717. I'm trying to
18 remember what that was.

19 (Pause)

20 MR. REED: Oh, okay, all right. Let's see, where's
21 that HUD? Purchase of HUD is 43.

22 (Pause)

23 MR. REED: Your Honor, if you -- if you look at --
24 this -- this document was a -- a screen grab off of my phone.

25 THE COURT: What are you looking at?

1 MR. REED: Number -- number 39.

2 THE COURT: All right, I have opened Claimant's
3 Exhibit 39.

4 MR. REED: 39 -- one of the -- one of the theories
5 that I -- for recovery that I had in this case is as allowable,
6 I understand, under the NJCFA is that's -- that obligations --
7 that the obligation, you know -- it has -- it's caused to exist
8 will remain because of a bad act. So one of the things that we
9 were looking at is the -- although the obligation for the first
10 mortgage under Old Dell Trace was extinguished when they
11 foreclosed on the -- on the property, the second mortgage is
12 not. It's foreclosed. And so that obligation remains, from
13 what I understand, active, as -- as you know, they've actively
14 tried to -- they haven't sued, but they actively tried --

15 THE COURT: Who's "they"?

16 MR. REED: JPMorgan Chase. So in this --

17 THE COURT: When did -- your testimony earlier was
18 that the second mortgage on Old Dell Trace was ultra, I think,
19 to Metrocities.

20 MR. REED: Yeah, and they -- and they sold it. They
21 sold it and that loan was a second mortgage of eighty-nine-nine
22 and in this screen grab, it indicates the eighty-nine-nine
23 was -- it's still outstanding. I testified that it's still
24 outstanding. It is not extinguished. It is no longer attached
25 to the property as a secured loan, but the obligation still

1 exists.

2 And I turn for corroborating evidence as to that to
3 Exhibit 43. I guess it's page 3, and you can see the amount of
4 the loan for the acquisition of -- the second loan for the
5 acquisition of eighty-nine-nine.

6 THE COURT: You told me earlier that you didn't
7 believe that you were an obligor on that loan, that your wife
8 signed it, not you.

9 MR. REED: I said I couldn't remember. When you
10 pressed me, I said --

11 THE COURT: Oh, pressed -- I asked a question.

12 MR. REED: And I -- and I --

13 THE COURT: And Exhibit 39 that you've just identified
14 doesn't indicate who the obligor is. It just -- you've
15 linked -- it shows the limit of 89,900 dollars. What's Credit
16 Karma?

17 MR. REED: That's a -- a credit checking app that you
18 can see what's -- you know, what -- you know, what -- what your
19 obligations are. And -- but I'm -- I'm offering the testimony
20 that that eighty-nine-nine is still due and payable. It was
21 not extinguished at the fore -- you know, not extinguished at
22 the foreclosure.

23 So either through Exhibit 43 and my testimony or what
24 help it would be or not, I guess the weight of your analysis as
25 to the value of this proof in Exhibit 39, I would move for it

1 to be admissible for whatever weight the Court wishes to give
2 it.

3 THE COURT: Ms. Hager?

4 MS. HAGER: Objection, hearsay, and it seems to be
5 some sort of a credit report. So it would fall within the
6 order on that motion in limine. I'd move to strike all of his
7 testimony concerning this document.

8 THE COURT: The objection I sustained. There's lack
9 of adequate foundation and the testimony relating to Claimant's
10 Exhibit 39 is likewise stricken.

11 MR. REED: But not the -- the -- for clarification
12 purposes, Your Honor, I mean, it's probably obvious but I'm
13 going to ask it anyway. Did my testimony regarding that second
14 mortgage as indicated in --

15 THE COURT: Well, I'm going to let your testimony
16 stand that you believe you're still obligated on the second
17 mortgage, but Exhibit 39 and what, if anything, it means is
18 stricken.

19 MR. REED: Okay.

20 THE COURT: All right, we really need to try and move
21 along. Why don't we do this -- let's take a ten-minute recess.
22 You really need to try and organize your --

23 MR. REED: I'm really trying, Your Honor. I -- I
24 really am.

25 THE COURT: Because we're spending a long time, Mr.

1 Reed, on -- I'm not telling you what you should or shouldn't
2 cover. But we've really got to move along, so try and make
3 some notes or something, exactly what you're going to cover
4 next. Okay?

5 MR. REED: Okay.

6 THE COURT: It's 4:24 on my watch. We'll restart at
7 4:34. I think we're going to go to 5:30 today. I've really got
8 to get on with this.

9 Is Mr. Curley coming tomorrow?

10 MR. REED: Yeah, at 9 o'clock.

11 THE COURT: Okay.

12 MR. REED: And I --

13 THE COURT: We'll take him out of order and let me
14 make some comments about Mr. Curley and his testimony. Give me
15 a second.

16 Before I do that, did you email Ms. Kline a copy of
17 the order?

18 MR. REED: I did, Your Honor.

19 THE COURT: Okay.

20 MR. REED: And you said I have to type up and file it.

21 THE COURT: Yes, tomorrow a certificate of service,
22 but you're telling me that you did serve her by email?

23 MR. REED: I did, and I know you said I have to do --
24 I need to have this done tomorrow morning. So I'm concerned
25 about how much longer we're going to go because I am very slow

1 at these legal documents.

2 THE COURT: All right, we'll stop at 5 o'clock, but
3 all you've got to do is -- a proof of service that you served
4 Ms. Kline with the order that was entered today, and that you
5 served her by email.

6 MR. REED: And the objection, I have to research this
7 objection to the -- to the --

8 THE COURT: If you're going to try and enforce the
9 subpoena --

10 MR. REED: Of course I want to.

11 THE COURT: Well, if you're going to try and enforce
12 the subpoena, then you need to file something in writing in the
13 morning.

14 Let me address briefly the issues about Mr. Curley. On
15 September 14th, I entered an order denying the motion in limine
16 to exclude evidence at trial concerning Mr. Reed's efforts to
17 refinance the mortgage on his Matlack property, including
18 through post-testimony of Robert Curley.

19 I concluded that whether evidence about Reed's failed
20 efforts to refinance the Matlack property because of attempted
21 wrongful foreclosure with a legal cause of compensable losses
22 relating to other properties -- for example, if the Reed
23 financing failed because of the filing of the foreclosure
24 action and would have made sufficient funds available for Reed
25 successfully to complete other real estate transactions cannot

1 be determined at this time, the Court needs to hear the
2 evidence in arguments at trial.

3 So Mr. Curley's going to come tomorrow. But what I
4 want to make clear on the record now, in the opinion and order
5 entered on October 6th, 2014, which was the memorandum and
6 opinion and order determining the amount of allowed claim of
7 Frank and Christina Reed, the opinion contains numerous
8 findings of fact regarding Mr. Reed's efforts at refinancing
9 the Matlack property.

10 My decision in that October 6, 2014 order was affirmed
11 in part and reversed in part. The findings of fact that I made
12 in the opinion remain the findings of fact and enforceable
13 today.

14 I reserved decision in the order on the motion in
15 limine because I want to hear the testimony, but the result may
16 be, Mr. Reed, that Mr. Curley's testimony is going to be
17 stricken. I don't know whether you sought to refinance Old
18 Dell Trace with TD Bank or -- I do know that through your
19 testimony that they had an approximate 600,000-dollar blanket
20 mortgage on the three rental properties. Those were not
21 covered in the prior trial testimony or in the findings of
22 fact. But I just want to make clear on the record that I'll
23 listen to Mr. Curley's testimony but it may well be that after
24 I hear it -- I'm not revisiting the findings of fact that I
25 made after the first trial. In some detail, at a number of

1 places in the opinion, 517 B.R. 482, 483, 487 and 488 -- 488
2 specifically, "Lost refinance opportunities" deals with -- at
3 some length -- that's not open to be revisited again. But I
4 just wanted to make that clear on the record before we have
5 Mr. Curley come tomorrow. Both you, Mr. Reed, and you,
6 Ms. Hager, can shape your questions accordingly.

7 It's 4:30. We're going to take a ten-minute recess.

8 (Recess from 4:29 p.m. until 4:41 p.m.)

9 (Audio begins mid-sentence)

10 THE COURT: -- Residential Capital, 12-12020.

11 Mr. Reed's still on the stand; he's still under oath.

12 Mr. Reed, go ahead. We're going to go until
13 5 o'clock.

14 (Pause)

15 MR. REED: So, going back to 2008, in 2008 the house
16 on Old Dell Trace was framed, watertight, windows, but the
17 interior work had to be, really, done. We showed other
18 pictures of how it was done. It -- so I moved down to Old Dell
19 Trace in -- when Mr. Cooper moved into my property in November
20 of '08. We diligently resumed the renovations that were being
21 conducted sporadically during '08. You know, I think it was
22 after the foreclosure was filed in New Jersey.

23 I had -- you know, we only had so much money at that
24 time; I can't remember the amount. Then we had acquired more
25 money, started -- continued working on the property in

1 Virginia, in '08 -- end of '08 to -- into through '09. In the
2 beginning of '08 -- or -- excuse me -- '09, I had returned to
3 New Jersey. Mr. Cooper had a sixty-day lease with us to -- he
4 had said they were going to close on the house, not the end of
5 November but now at the end of January. And I went up in --
6 think it was January, for the end of that short lease with him,
7 and the realtor, to do an extension of his lease. He wanted --
8 he said he needed more time to get money in -- overseas, in an
9 account that was somehow illiquid, or something like that. It
10 was in a partnership; I can't remember.

11 THE COURT: So that was all covered in the prior
12 trial.

13 MR. REED: Yeah, so I'm not going to say --

14 THE COURT: You don't need to go through that.

15 MR. REED: I'm not going to discuss that at length
16 here. I'm just refreshing my memory.

17 So when I returned, that's when I talked to
18 Mr. Maines, because, you know, Rob and I had talked a lot
19 when -- in New Jersey; lived there. His kids didn't play with
20 my kids but, you know, we knew each other and we were in the
21 similar --in the same field in life. What I did, we talked
22 about it. He even incorporated things in his house, that I
23 did, because he liked them and he saw value to it.

24 So that's when we talked to him about -- you know,
25 about finishing it. I brought pictures of the house. I think

1 I -- I think I actually -- don't know if the appraisal was done
2 yet, or there was -- I want to look at that real quick, Your
3 Honor, because I may have shown Mr. Maines that appraisal. I'm
4 just trying to remember by the date.

5 Uminski.

6 (Pause)

7 MR. REED: And maybe not the apprai -- the appraisal's
8 dated in February. I don't think I -- I may have shared it
9 to -- shared it with him afterwards; I'm not sure. But I had
10 pictures -- I remember bringing my blueprints, you know, the
11 sealed prints, the ones that were approved, from the county.
12 We discussed -- you know, my realtor had given me some market
13 analysis as to the -- what she thought the listing price would
14 be, for him to look at. The -- what do you call it? You know,
15 I -- you know, the interior pictures and samples of things that
16 we were doing, as well; material lives (ph.).

17 And so Mr. Maines -- you know, Rob -- he was
18 interested. I mean, I was candid with him; I told him -- you
19 know, he's, like, why do you want me to be involved, you know,
20 you're doing well with what you're doing. I mean, from our
21 perspective, a contemporaneous perspective, I'd had a contract
22 for two million forty with the Jacobses fall through,
23 through -- we felt, was a -- you know, just some -- I don't
24 want to rehash, but -- all the reasons why we discussed at the
25 original trial we didn't think it was correct, what happened.

1 And then we quickly had a second buyer. No one
2 knew --

3 THE COURT: Mr. Reed, we've been through all this.

4 MR. REED: Right.

5 THE COURT: This is all discussed in the prior --

6 MR. REED: Right. So I was not in -- in that moment
7 in time that I was talking to Mr. Maines, I wasn't in a moment
8 of panic or -- because Cooper had brought to the table some
9 funds; he brought to the table documentation that he was going
10 to close. The -- you know, I was actually looking at other
11 property to buy, so I wanted to finish this house quickly.
12 And, you know, if I could get -- if Rob would give me the money
13 now instead of waiting for Cooper, who now was contemplating
14 settling in the end of the summer, I'd give up some profit on
15 the house in Virginia if we were to sell it, or whatever we
16 would do with it, as -- with a partnership. And Rob was very
17 flexible with the idea of, you know, waiting for the right
18 price; we could rent it. He did that stuff with his house,
19 like when he sold his first house, the one he went from Coles
20 Court to 800 Matlack. He bought another -- he bought the
21 buyer's house, held that, rented it for a while --

22 MS. HAGER: Objection. Hearsay.

23 THE COURT: Sustained.

24 MR. REED: So I asked Rob about, you know, being
25 involved, and he was interested in being involved with it, but

1 his concern was -- with me, was the foreclosure wasn't
2 resolved.

3 MS. HAGER: Objection. Conflicts with Mr. Maines'
4 testimony.

5 THE COURT: Well, whether it conflicts or not, it's
6 hearsay about what Mr. Maines' concerns were. Mr. Maines
7 testified today. You can't testify --

8 MR. REED: I can't tell you what he's --

9 THE COURT: Yeah.

10 MR. REED: I understand, but I keep running into this
11 by accident.

12 So, nonetheless, he didn't -- the reasons he
13 testified: he didn't --

14 THE COURT: Just want to be -- sorry about that. Your
15 recollection of your conversations with Mr. Maines are in early
16 2009?

17 MR. REED: They were in -- they were in '08 and then
18 they got serious at the end of '08, on the phone. And then
19 when I came up to see Cooper, it was the -- I believe, January
20 of -- you know, of '09, when I come up about his leads.

21 You know, again, you know, thinking that the house is
22 going to sell to Cooper, and this is more of an -- you know --
23 you know, just a managing of the cash flow and the assets, to
24 maximize it. We thought we were continuing with our ongoing
25 business. For fifteen years, this is, you know, what I did.

1 And ups and downs. And there were recessions during that time.

2 There were drops in housing prices, and, you know --

3 THE COURT: In the first --

4 MR. REED: -- not --

5 THE COURT: In the first opinion, at page 479 it says,
6 "After Weaver failed to make his second monthly payment in
7 January 2009, Reed went to New Jersey to see the realtor.
8 While he was in New Jersey, Reed gave a default notice to a
9 person he believed to be Mr. Weaver's wife, at the property,"
10 and refers to your testimony. So you testified that you saw
11 Weaver in -- and I should say Mark Weaver a/k/a Brett Cooper;
12 you saw him in January of 2009. Does that refresh your
13 recollection?

14 MR. REED: Yeah, that's what I thought; I went up
15 there in January of 2009. That's what I -- that's what I was
16 saying. Wasn't it? That's the most I'm going to say.

17 THE COURT: And that's when you had conversations with
18 Mr. Maines?

19 MR. REED: Yes. I mean, we had them prior, when I
20 said, look, I'm coming up to see you -- or I'm coming up just
21 to -- you know, on business related to Cooper and the house.
22 And, you know, again, he said, yeah, I'd like to see it, let's
23 talk about this, let's move -- you know, move forward with
24 this.

25 MS. HAGER: Objection. Hearsay.

1 MR. REED: Oh, yeah.

2 THE COURT: Sustained.

3 MR. REED: So unnatural.

4 THE COURT: Where -- I'm sorry, Mr. Reed, I don't
5 understand where you're going with this testimony. But what is
6 the point you're trying to make?

7 MR. REED: The point I was trying to make is that, you
8 know, Maines -- the timing. You know, Maines was -- you know,
9 said he was, you know -- I can't say what he said. We were
10 going to -- my understanding is we were going to likely do a
11 transaction involving the property and then, when we had the --
12 I can't say it -- the conversation about why he didn't do it.

13 At that -- in that same time period -- make sure I'm
14 saying things that are right. I don't want to keep driving you
15 crazy.

16 (Pause)

17 MR. REED: So the money that Maines was going to give
18 me if he -- if we had done the deal, would have been more than
19 enough to finish the property, because I had X amount of
20 dollars that we were putting into that -- to the property, to
21 get it from the shell to what you saw on the photos, later in
22 '09. And probably, you know, in excess of it, too, because of
23 the amount of work we had already -- all the things I had
24 already purchased for it, all the materielle (sic); advances to
25 contractors, even; things of that nature.

1 I discussed -- and I -- the same kind of loan and
2 dollar amount with Joan Kline. I don't want to get into that
3 right now, because at around the same time -- think hers was at
4 the end of '08, to lend the money before. And -- but
5 there's -- I can't say much to that, because of her declaration
6 and --

7 THE COURT: Well, you can tell me what you said to
8 her, but she'll either -- she'll have to testify or she won't;
9 I don't know.

10 MR. REED: Okay.

11 THE COURT: We'll see what happens there.

12 MR. REED: So, Joan is my wife's cousin. Can't
13 remember -- but she's about -- I think she's, like, about
14 twelve, fifteen years older, you know, ten years older than us.
15 Maybe twelve or fif -- twelve or so. Joan has lent me money
16 over the years, at different points, for real estate, for some
17 cash flow, for when I had the restaurants. You know, in -- at
18 one point I think there was in excess of 100,000 out, because I
19 would ask her, for, like, you know, certain projects, you know,
20 10,000, 20,000, and I would draw -- it was almost like a draw.
21 And she would -- she would lend it to me and I would pay it
22 back.

23 But she had a -- Joan had a vicious shark
24 characteristic about her. Her interest rates were higher, for
25 sure, than the regular lenders, like TD Bank, one of the

1 mortgage companies that I -- you know, used to acquire them.
2 And, you know, obviously we want to, you know, make her -- I
3 mean, I didn't want to fight with her or -- because she's, you
4 know, my wife's relative. So what she demanded we would -- I
5 would give.

6 So I asked her for -- maybe it was around Christmas of
7 '08 when we had moved out of Matlack. We already had a chunk
8 of change from Cooper. I was working on the house immediately
9 and was looking to -- again, just like with Maines a month
10 later -- weeks later, looking at other property in the mar --
11 even a lot. There was a lot next to Old Dell Trace; it was
12 very attractive that you could have spec'd a property on. It
13 sold. And then I went through my records and stuff like that;
14 I had sold Brookschase and -- earlier, and that's why we -- you
15 know, I -- that was withdrawn from the suit. And, you know, it
16 brings back -- you know, some of these things bring back my
17 memories when I start digging into them.

18 So -- but Joan had a similar question. I mean, she
19 knew that we went into the foreclosure in New Jersey.

20 MS. HAGER: Objection. Calls for speculation.

21 MR. REED: Sorry.

22 I told Joan, and my wife told me that -- I don't know
23 if that's hearsay. She -- I could talk to her about it.

24 THE COURT: You told Joan that a foreclosure
25 proceeding had been started?

1 MR. REED: Yeah, I told her that. I mean, that was --
2 2008. I mean, you know, we mentioned it to her -- mentioned it
3 to her. But my under -- you know, again, my understanding is,
4 you know, this is something -- the foreclosure proceeding,
5 again, Your Honor, is something that -- it's like hitting --
6 how can I explain this? Best way to explain this -- how do I
7 do this for you?

8 My life was like I was on the Titanic, heard a noise
9 but had no idea of what it really meant and the ramifications
10 of it. And as those people in that boat learned, hours ticking
11 by, that their actual lives were in peril and they were going
12 to die, this is a similar situation where I didn't know -- upon
13 the original foreclosure filing, my biggest concern was my
14 credit hit, my -- how it was -- that's why we wanted to find
15 out how do we get rid of it and deal with it that way.

16 You know, there's evidence that the opposite approach
17 that I dealt with -- the Old Dell Trace being behind a few
18 payments versus Matlack. One -- I paid it, because, you know,
19 it was -- it's not something that was, like, I learned now, oh,
20 my God, this is going to have other far-reaching problems.

21 So -- and that -- that'll lead me to 2010 as we start
22 to real --

23 THE COURT: Are you moving into another subject?

24 MR. REED: Yeah, maybe I should stop.

25 THE COURT: We should stop, because you had --

1 MR. REED: Yeah.

2 THE COURT: -- indicated -- well, it's five after 5,
3 and we'll conclude for the day now. We'll begin at 9 a.m.
4 sharply on time, with Mr. Curley. And then when Mr. Curley
5 concludes, you'll go back on the witness stand.

6 Let me just understand; we have the issue about Joan
7 Kline. We'll -- I issued the order. You say you've served it.
8 We'll see whether she appears on Thursday.

9 With respect to the motion to quash the subpoena that
10 you're going to file an opposition to, Ms. Hager had indicated
11 that -- what's his name? McAndrews?

12 MR. REED: McCaffrey.

13 THE COURT: McCaffrey. -- that Mr. McCaffrey -- he'd
14 done an appraisal on -- which property?

15 MR. REED: Matlack.

16 THE COURT: Okay. What's the relevance of his
17 appraisal of Matlack?

18 MR. REED: I understand that -- Your Honor, some of
19 this runs from the -- you know, you -- making sure you
20 understand me and that I'm credible for you and as relating
21 evidence to it; it's not me talking about things. Mr. Maines
22 talked about how -- you know, his opinion was the work that I
23 did increased the value in property. I've testified
24 consistently; I increased the value of properties when I worked
25 on them. You know, there's some element to the legal argument,

1 again, that -- you know, that I'm qualified not just as a
2 layperson, as the owner of property, to discuss the value of
3 property and the loss of property and the reasons why.

4 THE COURT: But Matlack is not in the case.

5 MR. REED: It is not. It's just --

6 THE COURT: That's why I want to know what's the --
7 I'll --

8 MR. REED: Just --

9 THE COURT: I'll ask you -- stop. I'll ask you again
10 in the morning, when I see what's your opposition. But the
11 motion to quash filed by someone who did an appraisal -- old
12 appraisal on Matlack, who asserts that he is not in good
13 health -- but the more fundamental question is why is it
14 relevant to what the issues are in this trial? That's going
15 to -- that will have a bearing on how I rule.

16 MR. REED: Okay.

17 THE COURT: He talks about having to travel ninety-
18 five miles, or thereabouts, to get here. And he raises issues
19 about his health. I might approach it one way if I thought it
20 was central to the issues --

21 MR. REED: Um-hum.

22 THE COURT: -- in this trial. But you've acknowledged
23 it relates to an appraisal he did of Matlack, which is not in
24 this case. I'll wait to see tomorrow morning, but I'm just
25 cautioning you that if his testimony is at most of limited or

1 marginal relevance, I'm more inclined to view with skepticism
2 your subpoena to have him appear.

3 MR. REED: And I'll research --

4 THE COURT: But let's --

5 MR. REED: -- that tonight. Maybe I'll wind up
6 withdrawing it. I want to research.

7 THE COURT: Okay. I just -- I'm not ruling.

8 MR. REED: No. I understand.

9 THE COURT: I'm giving you the chance. I need to get
10 a response quickly, because you've got him coming -- scheduled
11 to come in --

12 MR. REED: Sure. And like --

13 THE COURT: -- the next day.

14 MR. REED: -- like when we did the motions on --

15 THE COURT: Let's stop now, okay?

16 We'll be in recess until 9 a.m. tomorrow morning.

17 MS. HAGER: Your Honor, may I clarify one thing --

18 THE COURT: Yes, you can.

19 MS. HAGER: -- with respect to Mr. Curley?

20 THE COURT: Yes.

21 MS. HAGER: Are we proceeding with his written
22 declaration in the same fashion that we did today with
23 Mr. Maines?

24 THE COURT: That's the way it should go.

25 MS. HAGER: Okay.

1 THE COURT: Mr. Curley should take the witness stand,
2 you should offer his written declaration, and then Ms. Hager
3 should cross-examine, and then you'll do a redirect. I made my
4 comments earlier, because I didn't want any confusion based on
5 my order denying the motion in limine, in saying I had to hear
6 the evidence. But I wanted to make clear, refresh everybody to
7 what I had found as facts in the earlier opinion. Those remain
8 operative. I was affirmed. The only thing I was reversed as
9 to was whether you would be permitted to offer evidence about
10 ascertainable loss and causation with damages, on other
11 ventures.

12 So we'll resume tomorrow morning.

13 MR. REED: Your Honor, I have a question; I don't know
14 if you can answer or not. I have to research this tonight,
15 too. Mr. Curley's written declaration was given very early on
16 in these proceedings.

17 THE COURT: You had an opportunity to prepare new
18 written testimony for Mr. Curley. So -- and I think I've been
19 very clear all along that direct testimony was to be in
20 writing. That's how we're proceeding. We'll see where we go,
21 after I hear the cross-examination, as to how broad the
22 redirect can be.

23 We're in recess until tomorrow morning at 9 o'clock.
24 Thank you.

25 (Whereupon these proceedings were concluded at 5:10 PM)

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I N D E X

T E S T I M O N Y

WITNESS	EXAM BY	PAGE
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E X H I B I T S

CLAIMANT'S DESCRIPTION	I.D.	ADM.
12 Deed of property purchased in 1995	12	13
Re: 12 - Pages 4 of 28, to 9 of 28	12	35
Re: 13 - Page 8, line 1, through page 18, line 23, of the Watson deposition	12	95
Re: 13 - Page 19, line 25 through page 20, line 3, of the Watson deposition	12	96
Re: 13 - Page 20, line 9, through page 21, line 24, of the Watson deposition	12	96
Re: 13 - Page 26, line 16, through page 27, line 4, of the Watson deposition	12	97

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2		E X H I B I T S (cont'd.)		
3	CLAIMANT'S DESCRIPTION	I.D.	ADM.	
4	(cont'd.)			
5	Re: 13 - Page 34, line 9, through page 35,	12	98	
6	line 9, of the Watson deposition			
7	Re: 15 - Page 5, line 22, through page 6,	12	100	
8	line 1, of the Clampitt deposition			
9	Re: 15 - Page 7, lines 18 through 20, of the	12	100	
10	Clampitt deposition			
11	Re: 15 - Page 8, line 21, through page 9,	12	101	
12	line 2, of the Clampitt deposition			
13	Re: 15 - Page 10, line 18, through page 11,	12	101	
14	line 14, of the Clampitt deposition			
15	Re: 15 - Page 12, line 11, through page 13,	12	101	
16	line 3, of the Clampitt deposition			
17	Re: 15 - Page 14, line 9, through page 15,	12	102	
18	line 16, of the Clampitt deposition			
19	Re: 15 - Page 16, line 2, through page 16,	12	103	
20	line 5, of the Clampitt deposition			
21	Re: 15 - Page 17, lines 9 through 11, of the	12	103	
22	Clampitt deposition			
23	Re: 15 - Page 17, lines 16 through 25, of the	12	103	
24	Clampitt deposition			
25				

	CLAIMANT'S DESCRIPTION	I.D.	ADM.
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2	E X H I B I T S (cont'd.)		
3	CLAIMANT'S DESCRIPTION	I.D.	ADM.
4	(cont'd.)		
5	Re: 15 - Page 21, lines 23 through 25, of the	12	104
6	Clampitt deposition		
7	Re: 15 - Page 29, lines 20 through 25, of the	12	104
8	Clampitt deposition		
9	Re: 15 - Page 30, lines 18 through 24, of the	12	104
10	Clampitt deposition		
11	Re: 15 - Page 39, lines 13 through 17, of the	12	105
12	Clampitt deposition		
13	Re: 15 - Page 46, line 25, through page 47,	12	105
14	line 2, of the Clampitt deposition		
15	Re: 15 - Page 47, lines 16 through 18, of the	12	105
16	Clampitt deposition		
17	24 Documents from County of Henrico	12	29
18	re: 9000 Spring Brook Court,		
19	4817 Cobblestone Landing Place,		
20	133 Brookschase Lane, and		
21	11617 Cobblestone Landing Court		
22	properties		
23	34 Seven photos	12	61
24	35 Photos of Matlack property	12	67
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E X H I B I T S (cont'd.)

CLAIMANT'S DESCRIPTION	I.D.	ADM.
(cont'd.)		
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of property purchased in 1995		
43 HUD purchase documentation	12	112
44 Five photos	12	51
-- Declaration of Robert Maines		
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C E R T I F I C A T I O N

I, David Rutt, certify that the foregoing transcript is a true
and accurate record of the proceedings.

A handwritten signature in dark ink, appearing to read 'David Rutt', is written over a horizontal line.

DAVID RUTT

AAERT Certified Electronic Transcriber CET**D 635

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Date: September 29, 2016